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**Legislative Assembly
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**Assemblée législative
de l'Ontario**

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**Official Report
of Debates
(Hansard)**

Tuesday 3 June 1997
Monday 16 June 1997

**Journal
des débats
(Hansard)**

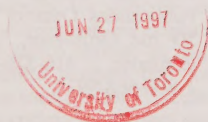
Mardi 3 juin 1997
Lundi 16 juin 1997

**Standing committee on
social development**

**Comité permanent des
affaires sociales**

Subcommittee business
Comprehensive Road
Safety Act, 1997

Travaux du sous-comité
Loi de 1997 sur un ensemble complet
de mesures visant la sécurité routière



Chair: Annamarie Castrilli
Clerk: Tonia Granum

Présidente : Annamarie Castrilli
Greffière : Tonia Granum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Tuesday 3 June 1997

Mardi 3 juin 1997

The committee met at 1554 in committee room 1.

SUBCOMMITTEE BUSINESS

The Chair (Ms Annamarie Castrilli): Good afternoon. This promises to be a very brief meeting. We have one item on the agenda, which is amendments in membership of the subcommittee. Are there any motions?

Mr Bruce Smith (Middlesex): I move that the membership of the subcommittee on committee business be amended by substituting Mr Carroll for Mrs Johns.

Monday 16 June 1997

The committee met at 1533 in room 151.

COMPREHENSIVE ROAD SAFETY ACT, 1997

LOI DE 1997 SUR UN ENSEMBLE COMPLET
DE MESURES VISANT LA SÉCURITÉ ROUTIÈRE

Consideration of Bill 138, An Act to promote road safety by increasing periods of suspension for Criminal Code convictions, impounding vehicles of suspended drivers, requiring treatment for impaired drivers, raising fines for driving while suspended, impounding critically defective commercial vehicles, creating an absolute liability offence for wheel separations, raising fines for passing stopped school buses, streamlining accident reporting requirements and amending other road safety programs / Projet de loi 138, Loi visant à favoriser la sécurité routière en augmentant les périodes de suspension pour les déclarations de culpabilité découlant du Code criminel, en mettant en fourrière les véhicules de conducteurs faisant l'objet d'une suspension, en exigeant le traitement des conducteurs en état d'ébriété, en augmentant les amendes pour conduite pendant que son permis est suspendu, en augmentant les amendes pour dépassement des roues, en augmentant les amendes pour dépassement d'un autobus scolaire arrêté, en simplifiant les exigences relatives à la déclaration des accidents et en modifiant d'autres programmes de sécurité routière.

The Chair (Ms Annamarie Castrilli): Ladies and gentlemen, welcome to our standing committee on social

The Chair: All in favour of that motion? Opposed? The motion is carried.

Any further motions?

Mr Dwight Duncan (Windsor-Walkerville): I move that the membership of the subcommittee be amended by adding Mrs McLeod.

The Chair: All in favour of the motion? Opposed? The motion is carried.

That ends the business of this committee. We are adjourned.

The committee adjourned at 1556.

Lundi 16 juin 1997

development. This is the first time that we consider Bill 138.

Just a couple of housekeeping items before we start. You will notice on your desk that you have a memorandum from the Ministry of Transportation enclosing some information with regard to licence reinstatement for persons convicted of drinking and driving a third time and draft criteria for commercial vehicle impoundment.

I wish to report that your subcommittee met last week and we have the following report, which I will read into the record.

"Your subcommittee met on Tuesday, June 9, 1997, and recommends the following with respect to Bill 138, the Comprehensive Road Safety Act, 1997.

"(1) That the minister and ministry staff be invited to appear before the committee for 30 minutes on Tuesday, June 17, 1997. Of that 30 minutes, 15 minutes would be set aside for the minister's presentation followed by a seven-and-a-half-minute response/question period by each of the two opposition parties.

"(2) That all witnesses be allotted 20-minute presentation slots.

"(3) That public hearings would be held in Toronto on Monday, June 16, Tuesday, June 17 and Tuesday, June 23, 1997.

"(4) That clause-by-clause would commence on Tuesday, June 24, 1997, and that all amendments are to be filed with the clerk of the committee by 1 pm on Tuesday, June 24, 1997.

"(5) That the caucuses would submit to the clerk of the committee a list of witnesses to be scheduled by 12 pm

on Tuesday, June 10, 1997. Witnesses will be scheduled by the clerk of the committee in rounds from the lists provided by the caucuses.

"(6) That the committee inform the public of the hearings via the Ontario parliamentary channel.

"(7) That the Chair, in consultation with the subcommittee, shall make all additional decisions necessary with respect to public hearings.

"(8) That the researcher will provide background information and/or a summary of recommendations."

Are there any comments or questions?

All those in favour? Opposed? Thank you very much. The report is adopted.

DAVID LOWRY

The Chair: I wish to move expeditiously to our first presenter, David Lowry. Welcome. We are very happy to have you here with us on this first day of hearings. As you've heard me read into the record, you have 20 minutes for your presentation. If there is any time remaining at the end of your presentation, we will ask you some questions. Please proceed.

Mr David Lowry: I don't represent anybody. I work for the TD Bank, pulling file BAs and commercial paper. The reason I'm here: because during the megacity opposition delays in February I kept hearing the Conservative MPPs say the delay was holding up important pieces of legislation and the prime example was the highway safety bill, and if the delay would cease, Queen's Park could pass such legislation and improve the lives of Ontarians.

The editors of the four main newspapers of Toronto — Globe, Star, Sun, Financial Post — agreed with this viewpoint and it was terribly difficult to find somebody who did not agree with the Conservative MPPs. I agreed with the Conservative MPPs. After a week or so I started to watch the newspapers to see when this important bill was going to be passed. After several weeks of reading articles in the newspaper of an occasional wheel coming off a truck, there were safety blitzes with no difference in results, even though the safety bill was ready for second reading.

Beginning in late April and still no bill, I took it upon myself to start phoning the transportation minister to find out what was going on because this was such an important bill, it was told to me, and I believed him. I kept hearing the excuses come out.

The first one I heard was the police did not like it, so I phoned the police division. I found out they have a special division which watches our highways and their main complaint was their lack of authority: having pulled over the truckers, all they can really do is give them a ticket and let them go on. They said this new bill would give the police the ability to take the truck off the road until the problems were fixed, so they were in favour of the bill.

Next I heard the trucking association was against it and then I was watching Global TV, Focus Ontario, and the president of the truckers association — I forget what it's called, but he said they were in favour of the bill. Then I thought, "I just read the day before you're against it."

So then I had to call the trucking association. They wanted the bill passed because they said there were too many bad apples coming out and ruining their reputation, so they were for the bill.

Next I heard that the Liberals and NDP were against the bill and were to stall it. I phoned their caucuses. Each of them said they would fast-track it. I really didn't understand what that meant. They said fast-tracking it would just do it in one day or within a week. Each time the government would tell me something the person was always telling me something opposite. I didn't know which to believe.

Next I heard the bill was ready to be passed but they had to have more serious sections added to it and a new Bill 138, but I kept wondering why was it so important during the megacity delays, but now had to have sections added to it. I just didn't understand that, because if it was before doing megacity the bill would have been passed, theoretically.

The new legislation involved drunk driving and passing safety buses, and who's against drunk driving? Everybody wants drunk drivers off the road. The next I heard about was the transportation of children. I called Laidlaw and their bus drivers always take their licence numbers down. I was told that when I got my licence 20 years ago. They've been doing it for years and their problem was they couldn't convict anybody, so they were in favour of the bill.

In the recent Road Safety '97, a massive check of trucks on roads, the bad trucks did not go down, or the percentage went down marginally, so automatically that kind of proves that the bill was useful and should be passed.

Finally, on a personal note, my father worked on heavy equipment for the military. He drove plows clearing the runways and refilled airplanes. For 35 years he never had an accident and after he retired I heard he would never allow anybody with an unsafe vehicle to be used or that driver was severely lectured to. My father was brought up on a farm and he was six feet eight, twice the size I am, so you really didn't want to do too much against him.

In all my phoning, I find the very people who are objecting to the bill are the government. They come out in the newspapers and say, "This is important, this is important, this is important," but then two or three weeks later you hear, "Oh, it can be delayed until February." Delay, delay, delay. Now they're talking about delaying to the fall, and then in the Toronto Star it said something about December. As an Ontarian I just don't understand, and that's why I'm here. Everybody tells me that bill is good. I've never read the bill. That helps.

1540

The Chair: Thank you very much, Mr Lowry. There's approximately four and a half minutes per caucus. We'll begin with the government side.

Mrs Margaret Marland (Mississauga South): I think your frustration, Mr Lowry, is understandable because sometimes when you're on the outside trying to understand what's going on on the inside in the process of government it is very difficult at best sometimes.

Mr Lowry: No, it's not difficult. It was common sense, they said. If it makes sense for Ontario, pass it.

We'll do better. Everybody tells me this is common sense. Everybody tells me this best for Ontario. I don't understand why the holdup. That's my own problem. If I believed in Mike Harris, I'd have to believe this bill is good.

Mrs Marland: I can assure you that we do want to get it passed as quickly as possible —

Mr Lowry: But why did he say earlier that he was going to delay it until fall? He said in the paper one time, before I really got into this, that this bill was going to be delayed until the fall. Then I started doing all this phoning and that really confused me.

Mrs Marland: One thing I would like to say to you is that a major portion of this bill deals with drunk driving and the components of this bill that address drunk driving were in a private member's bill of mine that was tabled in the fall of 1994. I'm now looking at three years since my private member's bill was tabled and my private member's bill has gone through two governments so I'm thrilled that finally we have the contents of my private member's bill in a government bill, and I understand why it has taken so long.

In the first place with the Bob Rae government, the House adjourned in December and wasn't recalled and —

Mr Lowry: Excuses, excuses.

Mrs Marland: — so it died on the order paper. There's always a process, as frustrating as it sometimes is, that delays the implementation of something that is very good. I agree with you that this is very good, and we do want to get it passed.

Mr Lowry: But the point is, I never cared anything about this road safety bill. I have never read it. All of a sudden during megacity they told me it was important. All of sudden it was important. "It is important. It's good for Ontario." I'm an Ontarian. I want something good for me. That's all I care about. To blame it on the opposition — I'm getting a little tired of all this stuff. Blame it on the opposition. If it's good, pass it. That's common sense. That's what you told me.

Mrs Marland: And that's what's going to happen.

Mr Lowry: That's what I believed.

Mrs Marland: The process of legislation is that there is always the implementation, no matter what the legislation is. The process of passing this — this will be passed before the House rises in another week and a half — that follows is the writing of the regulations that implement the bill. In order that nothing can be challenged in court and tie up the implementation of the direction of the bill, it has to be done perfectly and very carefully. That's why the process takes as long as it does.

Mr Lowry: But why did you tell me in February, if this megacity was not going on, bills like this could be passed? If it takes all this long, why did you tell me in February? For a person who doesn't care about our safety in the first place, all of a sudden you told me this was important to me. You told me: "Hey I want this passed. If we didn't have this delay — filibuster delay — this would be passed." That was it.

The Chair: Mr Leadston, did you want to ask a question, just very briefly?

Mr Gary L. Leadston (Kitchener-Wilmot): I wonder if we could provide Mr Lowry with some more data about the bill so that he —

Mr Lowry: It doesn't matter to me. I don't care. All I heard was that it was a good bill. People tell me it's a good bill. All these organizations tell me it's a good bill. I believe them. I don't care about all this stuff.

Mr Leadston: I was just trying to assist you in having some more of the information about the bill.

The Chair: Mr Lowry can have as much information as he wishes. The official opposition.

Mr Dwight Duncan (Windsor-Walkerville): I can't add much. We were puzzled similarly by the delay. This is a government that has passed for instance Bill 7, which was 700 pages, and without any hearings did it in two weeks. Now they're stuck with a whole bunch of problems related to regulatory changes that need to be made. This a government that did Bill 26, again with very limited public hearings, very limited time for opposition to speak.

On January 9 the minister said: "If safety is not your business, you will be out of business. We are committed. I'm telling you I'm going to get the job done. In the next 90 days a few changes are going to happen." The minister introduced his bill on February 27. Even if you want to blame the opposition filibuster, the filibuster didn't start until three weeks later.

Mr Lowry: I'm not blaming anybody.

Mr Duncan: I know. I'm addressing this to the government.

Mr Lowry: I'm just saying I believed it was a good bill.

Mr Duncan: Bill 125 was a good bill. We're glad it has been incorporated into this bill. We're glad that Mrs Marland's private member's bill has been incorporated. We have some changes to propose in both the truck safety and the bus safety legislation. We'll be bringing those amendments forward and we hope the government will respond to them. I think it also needs to be said that the government is incorporating Pat Hoy's private member's bill on school bus safety, but we have to deal with the issue of the nature of the liability in that bill and we will be bringing those amendments forward.

We were as puzzled as you were, because we asked the questions in the House. There were almost two weeks between the time the bill was introduced and the time the filibuster happened, so even if the government says that, they've been able to deal with much more substantial legislation in just as short a period of time. We kept asking, we sent letters and then all of a sudden in the Toronto Sun and in the Toronto media the Premier was being quoted as saying that Bill 125 was too draconian. That's when we started to sense something.

Then we introduced our own private member's bill which incorporated not only Bill 125 but —

Mr Lowry: Why can't you just get together and pass the bill? It's as simple as that.

Mr Duncan: — a number of the amendments, and we had an opposition day. At that time the government finally moved and we're glad they have. We'd like to get on with these hearings as quickly as possible as well.

Mr Lowry: All I want to know is, if it's good for Ontario —

The Chair: Thank you. For the third party, Mr Bisson.

Mr Gilles Bisson (Cochrane South): First of all I want to thank you for coming to present. I think the point

you are trying to make through all this discussion is that somehow we've got to get this Legislature to work for the people of Ontario rather than just the politicians.

Mr Lowry: It is. Everybody says it's good.

Mr Bisson: That's right.

Mr Lowry: That's why I don't understand why it has been delayed.

Mr Bisson: It's a very good point, and I think one of the things we need to do, all of us on all sides of the House, is to try to find a way to get this Legislature to work not just for cabinet, because in the end they're the people with the power who decide when things go through the Legislature, but to work for people like you. I'd like to thank you for having come to present to this committee and make this contribution.

The Chair: Mr Lowry, thank you very much for coming here today, for being our very first speaker and for sharing your concerns with us.

Mr Lowry: You are welcome.

1550

DALE HOLMAN

The Chair: I call on Dale Holman. Welcome to our committee.

Mr Dale Holman: My involvement in the trucking industry began as a child with a father who drove a truck for a living. While we have been witness to countless changes over the years, what with today's available technology, rules and regulations that have changed, supposedly better training for everyone involved with the trucking industry and the experience we have harvested over the years to show us our errors, we still have concerns that I used to overhear my father and his friends talk about 35 years ago, and they are the exact same concerns that I talk about with my friends today. So in 35 years, with everything we have done, we haven't really gone anywhere yet.

Without a doubt some changes have been made that have become very beneficial to this industry. Some of them are IFTA for fuel taxes and things like that. We have a lot of new programs coming on line as well as some excellent ideas to make trucking safer. We are trying to make it more attractive to newcomers to enter into our industry and we want to become more cost-effective than ever so we can deal with change and things like that. We certainly have that need.

The first change I would like to address is the Target '97 paper. While everyone is looking at the wording and trying to imagine the effects these changes are going to bring about, I think we have to look between the lines here to see that there's a real message that's happened here.

For all my experiences in the industry, I have never seen anybody really work together. I used to see two people sit down at a table and do nothing but argue. We took a whole group of people from the industry and we put them all together in one committee to produce one paper, and they did it. They didn't squabble and argue or anything. They produced a paper that is probably a first of its kind in North America where we had everybody actually sit down and work together and produce some-

thing we can use. The task force created a paper, The Target '97 Issue, and it has to be passed without any delay at all.

However, Target '97 has left off a few areas that someone who's been in the industry can surely see without needing glasses. We have fines that are taking money out of the industry — the increase in fines. They haven't really served to change anything yet that I can see. The industry is cash-starved. For myself, being an owner-operator, and a lot of people like myself, a tax goes on tires or something like that and the cost of the tires goes up by \$40. The driver has to wait another couple of weeks to buy his tires because unfortunately his family and food on the table and a house for them to live in come first.

If fines are increased the way it looks like they're going to go, if we could have those fines earmarked to increase enforcement out on the roads and used to better train enforcement personnel, put back into better training of drivers and creating some sort of a format — a lot of drivers I talk to out on the road, owner-operators and company drivers, are concerned that there are all these rules and regulations. Unfortunately, they affect them and they're the only ones who don't seem to be able to get their hands on the materials. It's actually kind of scary. You create a set of rules for the players and the players are the only ones who don't know what the rules are.

I travel between Toronto and Toledo, Ohio, on a nightly basis. I pass every night six scales in Ontario and two scales in the state of Michigan. The average for the state of Michigan, their scales are open about 80% of the time. Between January 1 and the end of April, the Ontario scales were open to the point that I had to enter them four times in four months. We don't really need them on the side of the road. All we need is just to put a car out there and every once in a while pull a truck over.

The scales are state of the art when you compare them to what some of the other jurisdictions in North America have. The only problem is, they're always locked up. Drivers are always accused of going around the scales. We never have to because they're never open. In fact, we always go in because it's a place we can park and sleep without —

Mr Bisson: It's the safest place on the highway.

Mr Holman: Sometimes it's the only place.

Mr Bisson: It's the only place you can't fine them too.

Mr Holman: Yes, and the only thing is, they don't have washrooms.

This is an area of great concern. We have the facilities in place. Maybe we can take some of this money — and the increased fines, if the fines are going to be increased and levied as such — and put inspectors in to open our scales up. Maybe we can't open them up for 24 hours a day, seven days a week, but we can certainly improve on maybe four times in four months.

The traffic on Highway 401 is very heavy at night and I hear that the scales are open every day. I've never seen it, but we basically have a ribbon of trucks up and down the road every night and that's when the enforcement needs to be out there, and everybody is at home.

Another problem I have is with inspectors. I bought a new truck a couple of years back. I know several of the

inspectors. I stopped at the scale at Milton. I had my truck checked for length and I got kind of an outline of what I can do and what I can't do. I stopped at the scale at Putnam, down by London, and I was told there that the configuration of my truck has to be such, and unfortunately it didn't match inspector number one's view. I was red-lighted when I got to the scale in Windsor, which I was quite surprised to find open, and I got called in and dragged over the coals because I had configured my truck to inspector number two's configuration and inspector number three found that I was illegal in my setup.

After he was preparing to write me a ticket, I brought out the other two pieces of paper and informed him that three officers, all within a matter of hours, inspected the exact same truck, the same trailers, the same tractor, driven by the same driver, and I got three different pieces of paper saying three different things.

How can a driver know what he is supposed to do when the inspectors don't know how to read the words on the page? I informed the inspector at Windsor what I had been told. I had a copy of the length laws for the 25-metre rules in the truck. I brought a copy of it in and I read him the paragraph subject to my vehicle. I actually proved all three wrong because, as long as my trailers were under a certain length overall and my tractor didn't exceed 25 metres hooked to the trailers, there were no rules. He finally conceded on that point, along with his boss who happened to be there at the time. Enforcement is not uniform. What I see drivers getting stopped and ticketed for at one scale is not a problem at the next scale, but they'll nail you for something else.

I recently was made aware of a situation where drivers at one scale in western Ontario were getting written up for not having an extra jug of windshield washer fluid in their truck. I thought that we were really, truly after improving road safety, not seeing how we can lay petty charges. I have never, ever heard that we had to carry an extra jug of windshield washer in a truck.

The drivers and the companies — based on these types of things, we're basically out there for harassment. We look after our trucks. I take great pride in my own equipment. Yet if I go in and see an inspector and it's somebody I don't know or can't outsmart them on the rules and regulations, I'm going to get a ticket for something. They're going to keep looking until they find something wrong. It's almost to the point that they use US enforcement: If they can't find anything wrong, they break a light and make something wrong and then they write you a ticket for it.

Drivers out there, and this is a great concern — I speak for a lot of them — have a view that the government is simply out for the dollar and not for the enforcement. They view fines as a cost of business, like a toll. No matter what I do, I might as well save my money and get ready to pay the fine because I know I'm going to get that anyhow if I get stopped whether or not I have something wrong. I deal with a lot of inspectors, sometimes on a day-to-day basis, and most of them are very good people, but they're like drivers. If they don't have all the research at their fingertips, they run into problems.

Driver licensing practices: I took my driver's test years ago. One of the things I find deeply disturbing with the

driver's test, and I've spent over three million kilometres in my career driving up and down a highway, is that it included driving around the block in an industrial area with no traffic. There's something wrong with this picture. This is something that really, deeply has to be addressed. I see drivers who have been driving for two or three years and they can't come on and off a highway without having problems. They go off a ramp too quickly; they don't accelerate properly; they cut people off when they come on to the highway. There are problems and lot of them are because they are self-taught. There are a lot of good schools teaching the guys the proper way and they give them a lot of on-highway time. My hat goes off to those schools.

We have a situation with regulations. I was offered a copy of the Highway Traffic Act about two years ago, and they said, "If you can understand that, we will give you a job you cannot turn down." Unfortunately, I'm still chasing that job. I study the book every night and I still haven't begun to understand even the first part of it.

1600

There is a strong need to define each role. A driver, mechanic and owner must each know what is expected of them. Drivers have to make sure a vehicle conforms to standards. I haven't been able to talk to any one person who can definitely outline those standards for me. As a mechanic, I know mechanics who are dealing with trucks. I had a bad experience a few years ago where I had one put new kingpins in the front end for me, only to find out when I got the job back — a couple of days later the vehicle was involved in an accident and inspection showed that they had failed to reset the front brakes. I was charged with allowing the operation of an unsafe vehicle three days after it came out of the shop. I was found guilty of that because the judge who heard the case, as soon as we talked about a front-brake limiting valve on the truck, she didn't understand it and I was guilty. Maybe we need to take some of the justices in the province and set up an education process for them as well.

Driver pre-trips: Target '97 addresses this in a small manner. Driver pre-trips have to be defined. A driver must look at lights, he must look at his brakes, he must look at his low-air warning. He has to have a list of things he checks, not "the vehicle must conform to standards," because the standards change every day. A truck that was built a few years ago may not have something that conforms to standards today so therefore, no matter what the driver does and no matter what condition the vehicle is in, he's driving a truck that's unsafe.

Drivers: I share the profession with them up and down the road and I see them all the time. They pull out into the third lane to drive 120, 130 kilometres an hour. Unfortunately, they think they're still in their car. Is there no way we can deal with the driver aspect as well as much of the outline of the CVOR, where driver demerit points based on their actions in a commercial vehicle could see them lose their class licence and go back to a G licence, which would certainly smarten them up? One of the concerns of a lot of drivers when they came out with the demerit point system was, "Gee, I get nailed for

overweight and I end up losing my licence even to drive a car." If we could do something there, that would be great as well.

I spend a lot of time looking at brakes of trucks. I do brake testing around the province. I find that a lot of mechanics who are dealing with brake systems are licensed to work on a vehicle and they don't know what they're doing. They put the wrong valves on. They mismatch components. What it boils down to is that they haven't had the training to stay current with the technology. They're out there manually adjusting automatic slack adjusters, things like that. It's just a danger.

As I said, Target '97 is a great accomplishment and it must be passed, but without due consideration of other points it cannot have the impact that must be realized. I applaud the efforts by all the people involved and hope that the time and work invested are allowed to pay off. I would not want to look back 35 years from now and find that, after a long, exhaustive journey, we have failed to travel anywhere. Thank you for your time.

The Chair: Thank you very much, Mr Holman. We have about two minutes per caucus, beginning with the official opposition.

Mr Duncan: I have just a couple of brief comments. You raise some very significant points. First, on the question of enforcement, not only is there concern about different inspection stations and different inspectors but there's also concern — we've raised this in the House and we will again be questioning the minister — about the issue of the nature of the role the OPP plays versus the MTO inspectors.

You also referred to Target '97. Probably one of the only areas where we're a little disappointed in this bill is that it really addresses only one new recommendation out of Target '97 and there is a whole range of others. The government will probably correctly suggest that the balance of those issues can be addressed in regulation. We don't oppose that, save and except that we will present an amendment asking the government to provide for a committee similar to Target '97 to oversee the implementation so that there is a public process beyond that which is normally defined in the regulatory process and an opportunity for public input.

You had indicated that 80% of the time, truck inspection stations are open in the state of Michigan. Is that your own observation or have you found that number out from the department of transportation in the state of Michigan?

Mr Holman: The way I find it out is from talking to other drivers, seeing it myself, my own observations. We travel Interstate 75 every night and there are two scales, one southbound and one northbound. About one night of the week each scale will be closed, and that doesn't necessarily mean Monday night or a Friday night, each one; they rotate.

Mr Duncan: It's your experience, then, that in other jurisdictions inspection stations are open more, and you're referencing Michigan specifically?

Mr Holman: Yes. In a lot of areas in the US they're open 24 hours a day, 365 days a year.

Mr Duncan: Do they pull all trucks over at those times?

Mr Holman: Yes. At the port of entry they do.

Mr Bisson: Thank you very much for your presentation. You covered a lot of ground and I have a couple of questions. The first is on the Target '97 recommendations. As you know, an industry-government committee put that together. There wasn't public representation on there to the degree there needed to be.

The question I have for you is that the government is supposedly going to be moving forward on the bulk of the recommendations of Target '97 through regulation. Are you comfortable allowing the cabinet that amount of power without any public accountability?

Mr Holman: I think what needs to happen first of all is to take the people — and they've already put some of them at the table for Target '97. They have to include that. They have to get the people who are involved in the industry. They have to take some public insight into it as well.

Mr Bisson: The process at this point, unfortunately, is that the committee is out of it. It's in the hands of cabinet to decide what, if anything, under Target '97 will go forward. Should that rest in the hands of cabinet or should there be some sort of public and industry involvement? That's what I'm asking.

Mr Holman: Anybody I've talked to from the public, and I spend a lot of time doing it as a member of the OTA Road Knights team, has a very tunnel vision approach to road safety. Their only answer is that yes, it must go through. Anything is a point in the right direction. My big fear is that we're going to spend a lot of time doing it, as I mentioned, and will find out a few years down the road that we really didn't change anything because we didn't give everybody the tools.

Mr Bisson: Is this comprehensive truck safety legislation?

Mr Holman: Target '97?

Mr Bisson: No, the bill. Is the bill, in your view, comprehensive truck safety legislation?

Mr Holman: It is in the points it addresses, but it needs to go further.

Mr Frank Klees (York-Mackenzie): Thank you for your comments — quite an indictment of inspectors. I would think that regardless of what we do legislatively, regardless of what standards we put in place, if we don't have effective inspection, it doesn't do us much good, does it?

Mr Holman: No, and that's exactly what we're afraid of out on the road, that they're given more tools to do the same thing with them.

Mr Klees: Has this problem with inspection been prevalent for some time? You've been on the road for a number of years. Is this something recent?

Mr Holman: No, it's been going on for a long time, all of my recognition of the trucking industry since I was a child anyhow.

Mr Klees: Is it worse in some parts of the province than in others?

Mr Holman: Yes, definitely.

Mr Klees: So it's an identifiable problem. If we were to get some input from people in your industry, we could probably narrow down where the problems really are.

Mr Holman: You may have one problem in the Toronto region that you don't have in the western Ontario region, but you may have a different one there. Like I said, they're writing people up for not having an extra jug of windshield washer fluid.

Mr Klees: Let me ask you this: What, in your opinion, is an effective way of getting a handle on this?

Mr Holman: One book, in black and white. It's one rule page and everybody has to deal off the same page and everybody has access to that rule book — drivers, mechanics, fleet owners, manufacturers of the equipment, the enforcement people, the OPP, the government. It's got to be one piece of paper, and it's got to be plain and simple and in English so everybody can understand it. Failing that, it's not going to work.

The Chair: Thank you very much, Mr Holman. We appreciate that you came before us and shared your very personal experiences with us today.

1610

CANADIAN INDUSTRIAL TRANSPORTATION LEAGUE

The Chair: I call upon the Canadian Industrial Transportation League, Lisa MacGillivray and Don Hughes. Good afternoon. I remind you that you have 20 minutes to make your presentation. At the conclusion of your presentation, if there is any time, the committee would ask you some questions.

Ms Lisa MacGillivray: We'll certainly endeavour to stay within our time limit.

Good afternoon, committee members. My name is Lisa MacGillivray, and I'm the manager of policy and government affairs for the Canadian Industrial Transportation League. The gentleman with me is Mr Don Hughes; he's the director of distribution for Growmark, an agricultural and agriproduct concern here in Ontario. Mr Hughes is the chairman of the CITL Ontario region's highway transportation committee.

The CITL is a national organization representing the transportation interests of some 300 corporate members across Canada. A substantial percentage of these members operate or reside here in Ontario. Collectively, our member companies generate more than \$120 billion in trade and purchase more than \$6 billion in freight services annually. I'd like to point out that this is all modes, not just truck.

We are grateful for this opportunity to make a submission to the standing committee on the issue of truck safety. The CITL is in favour of legislation that provides a means to make our highways safer. We will be focusing our remarks on the commercial vehicle clauses of Bill 138.

We are generally supportive of the government's strong stance to remove commercial vehicles with critical defects. We are thus far satisfied, in our discussions with Ministry of Transportation officials, that vehicles will only be impounded for truly critical defects. However, subsection 82.1(15) requires the operator, after an impound order, to remove the load at the inspection site. While this seems an easy enough request, it can be fraught with potential hazard.

There are some commodities that may be dangerous, unwise and injurious to health and/or the environment, or impossible to move unless proper facilities are available. Even non-hazardous goods which are palletized will require the use of a forklift. Issues surrounding livestock, dangerous goods, bulk products and perishable products, to name a few, are examples where it would be detrimental to handle the product at an unsuitable location. In fact, it may not be possible to transship certain products without specialized equipment and trained personnel.

Further, subsections (17) and (18) provide for the officer to cause the load to be removed, stored or otherwise disposed of at the cost and risk of the operator. We have raised our concerns about certain commodities that are hazardous to move and store without proper facilities and training. We are profoundly disturbed by the possibility of disposal.

The CITL understands from its conversations with MTO officials that the intent of granting the authority to dispose of goods is in the event that the carrier abandons goods with no or little value. However, this proposed legislation does not make this clear. Read literally, it appears that the state and its designates are granted the authority to appropriate and dispose of goods that are lawfully the property of another. Whether the goods are worthless or not, they belong to someone else, and that someone is generally not the carrier. The owners ought to be notified and instructions duly given before action is taken. We respectfully request that the legislation be amended to consider this and remove the possibility that government officials may appropriate and dispose of that which does not belong to them.

The CITL does not profess to be a technical expert in the area of wheel separation, but we feel duty-bound to point out that section 84.1, relating to liability of the carrier in the event that a wheel separates, does not provide for the carrier to be relieved from liability if the cause is a manufacturer's defect. It is possible that the wheel separation could occur due to inherent component failure caused by factors completely outside the carrier's control. In our opinion, in the case of component failure due to inherent defect, the manufacturer of that component should also be responsible for the consequences.

One of the recommendations of the Worona inquiry was the implementation of a certified wheel maintenance and installer program. We have professional designated wheel installers. Why are they immune from liability?

We are surprised that the definition of a wheel does not include a tire and that it is acceptable for tires or pieces of tires to come off with no penalties. Tire failure is often preceded by visible signs of separation, which are far easier to detect during a circle check than is potential wheel failure.

We wish to reiterate that the CITL is supportive of the government's initiatives on truck safety. The CITL is a member of the Target '97 project and we endorse the concept that these recommendations should be received as a package. The 79 recommendations contained therein represent interrelated tools that can achieve the result that the government, the Ontario public and the transportation industry are looking for.

We note that the current changes proposed make no reference to a carrier safety rating system, but we assume that this program is under development and enabling legislation and/or regulation is imminent. We have stated and will continue to state that shippers must have immediate and easy access to carrier records and safety potential in order for the shipper to make an informed judgement as to the carrier's safety record and suitability. We anticipate a revised and revamped commercial vehicle operator's record will fulfil these needs. A safety rating system based on these MTO-maintained records will give Ontario shippers the tools to make the right choices.

We look forward to the implementation of this program and trust that there will be as cooperative an effort to initiate a safety ratings program in the near future as there is to penalize unsafe drivers and vehicles today.

Ladies and gentlemen, I thank you for the time you've allowed the CITL to bring forth its views. Both Mr Hughes and I welcome any questions you might have.

The Chair: Thank you. We have just under five minutes per caucus. In the absence of Mr Bisson — it's the NDP rotation — we'll go to the government.

Mrs Marland: Ms MacGillivray and Mr Hughes, were you here for all of Mr Holman's presentation, the previous presenter? I was very interested in a point he made and I wanted to ask you based on your experience. His concern is about the fact that there is such a variance in enforcement of standards and actually enforcement of the Highway Traffic Act in some aspects to the trucking industry and the frequency of the operation of the scales. I wonder if you had any comment to make on that aspect from the CITL's perspective.

Ms MacGillivray: I think for a long time there have been the tools available to make these changes. For whatever reason, priorities lay elsewhere and the Highway Traffic Act, or the spirit of that act, probably was not enforced as well as it could have been.

As far as enforcement and audits are concerned, there is a fair amount of training that needs to be done among the inspectors, and a concerted effort should probably be part of this program. This is what we mean when we say it's a package deal. We don't believe that you can just bring in one or two measures and expect that to do the job; you have to approach it from all angles. It's a many-pronged type of solution that we're looking at here.

Mrs Marland: Do you think it's possible for us to go forward with this legislation and at least try to address one area while we take ongoing advice from the industry in terms of what else would be feasible to introduce and implement?

Ms MacGillivray: I think that is the most practical way to approach it. As I said, it's a huge project. The revisions and the work that is currently being done on the CVOR program is not something you'll be able to do in one month. We're hoping to have something by the end of the year, and that's a good hope, but we might be talking about rewriting that entire system, which one can't do overnight. But I think implementation as things are ready is probably a good thing, as long as the whole goal of the entire recommendation package is not forgotten.

Mrs Julia Munro (Durham-York): Thank you very much for being here today. You mentioned something

that I think we'd all like to know a little bit more about and that is the issue you raised about carrier safety rating. I just wonder if you could explain for us how the establishment of such a public rating system would improve truck safety across the province.

Ms MacGillivray: It would be —
Interruption.

Interjection: She didn't like that question.

Ms MacGillivray: I didn't think the presentation was that bad either.

Mrs Marland: It's so hard to hear in this room right now.

Ms MacGillivray: The safety carrier rating program is important from the shipper's point of view because the thing that we more or less envision is a situation where a carrier would be audited. His safety record would be easily accessible and available to the shipper so that when they're buying transportation services they'll know who is a satisfactory carrier and they'll be able to make the right choices. Shippers don't want to hire unsafe carriers, but the way it is right now it's very hard to tell who's safe and who's unsafe, once you define what safe and unsafe are.

1620

Mrs Lyn McLeod (Fort William): As you know, all of us have expressed our concern to see truck safety legislation not only brought in but passed fairly quickly because of the most obvious concern with the flying truck tires. I would hope that even with the commitment we all have to see this pass quickly, the government is going to be amenable to some amendments where there are some things that can be fixed in this legislation.

I'd like to ask you to expand a little bit on the concerns that you indicated at the beginning. If I understood it correctly, you were concerned about whether the act really deals adequately with the removal of property, of goods from a truck which might be impounded. As I read the act, it's to be done in accordance with the dangerous goods provisions and there's also to be notification of the owner of the property as well as of those who were to receive the goods. Are you concerned that it's just not adequate as it's spelled out in the act?

Ms MacGillivray: I guess we're concerned that the proper facilities will be available. There are some hazardous materials, chemicals, for which you must be in a specialized facility with very specialized, trained staff to do that. We are concerned about liability of this exposure to the environment. We want to make sure that any regulations that come out of this cover these concerns and make sure you're not going to do more damage to the environment as a whole by getting an unsafe carrier off the road in a way that's just not viable.

Mrs McLeod: Because any removal of goods is to be done in accordance with the Dangerous Goods Transportation Act, that act would not provide the protection you think is needed?

Mr Don Hughes: I think the concern is the transfer and how the transfer would be made and if there are proper facilities for effecting that transfer. If it is an impounded vehicle and there are commodities on that vehicle that must be removed, we have no problem with having them removed as long as there is the proper

facility for removing them; that is, the proper equipment and things like this for removing them, and assuming that the consignee and/or the shipper have been duly notified and given the opportunity to remove them.

The Chair: For the third party, Mr Bisson.

Mr Bisson: I apologize for having missed your presentation. I was out watching what was going on in the other committee room with WCB. I came back and read what you had, but there's a comment that you made that I guess perplexed me to a certain extent. You said that basically shippers are not interested in shipping with unsafe carriers. There are some unsafe shippers. There are carriers out there using unsafe trucks. They're being caught on the highways on a fairly regular basis. Who are they, if they're not shippers?

Ms MacGillivray: I'm sorry?

Mr Bisson: You made the comment, you said that shippers do not want to ship with unsafe trucks. Yet every day there are trucks being pulled over on our highways when we have blitzes and as a regular occurrence we have unsafe trucks. They're carrying goods around for somebody.

Ms MacGillivray: Our point is that the shipping community does not have easy access to any kind of fora that would give us that information. How are we to know that we're hiring an unsafe carrier unless we're told? We can't be riding around with the OPP every day to find out who they're pulling over. Generally, the shipper never hears about it. A carrier isn't going to walk in and say, "Hello, I got pulled over today."

Mr Bisson: What you're calling for is some sort of a rating system where, if I'm the shipper, I know who I'm dealing with. If that means an increase in costs for the shipper — because one of the things that's driving unsafe trucks is lower prices. People are undercutting some of the more reputable trucking companies. If it means higher prices for shipping, are you prepared to pay?

Mr Hughes: As a shipper, I would be prepared to pay for that type of information if it was available.

The Chair: Thank you very much, Mr Hughes and Ms MacGillivray, for being here today and bringing the concerns of your industry to us.

TRUCK TRAINING SCHOOLS ASSOCIATION OF ONTARIO

The Chair: The Truck Training Schools Association of Ontario, Mr Kim Richardson and Wayne Campbell. Welcome. Thank you very much for being here this afternoon and taking the time to be with us, which you may use as you wish. If there's any time remaining, we'll ask you some questions.

Mr Kim Richardson: Thank you to the standing committee for an opportunity to comment. My name is Kim Richardson. I'm the president of the Truck Training Schools Association of Ontario.

The Truck Training Schools Association of Ontario represents a number of registered private vocational schools that conduct professional driver training for tractor-trailer operators in Ontario. Our membership currently represents approximately 75% of all new entry-level operators being tested by the Ministry of Transporta-

tion. Our association has specifications, terms and conditions that must be followed, as well as an auditing process that will be launched by the fall of 1997.

Since 1992, our association has become to the industry the choice for a commonsense approach to training ventures. Industry has turned to our group for input, advice and guidance to lending support for improvement to the trucking industry. I now encourage this committee and government to listen to some changes that must be made to the truck training business if you want the carnage on the highways to stop.

Ten to 15 minutes is not a sufficient amount of time to address all of these issues, but hopefully I can scratch the surface and gain some interest in the necessary changes.

I would like to go on record as saying that the TTSAO executive and membership are willing to meet with any committee or any group that has a genuine interest in road safety and professional training.

Regarding Bill 138, Comprehensive Road Safety Act; on Target '97 blueprint, class AZ driver's licence test and class AZ driver training, necessary changes:

(1) Non-registered training facilities must be forced to register with private vocational schools. Licensing mills are all across the province and individuals who participate in these programs are not receiving adequate training. Quite simply, the Private Vocational Schools Act must have some more teeth so this governing body can do its job.

We corresponded with the Honourable Mr Snobelen and I've given you a copy of the letter dated October 10, 1995. If you look down in the appendix to point 1, "Changes to the Private Vocational Schools Act," it says: "Amend the act to include regulations which would deter unqualified truck training schools from offering inferior programs and eliminate unaccredited schools. The objective of these new regulations would be to establish clear criteria for operating a registered truck training school in the province of Ontario."

I might also add that under item 2 we talked about monitoring: "The private vocational schools sector of the Ministry of Education and Training and the Truck Training Schools Association of Ontario could develop a partnership agreement to assist in the monitoring and discipline of the membership training schools."

I might also add at this time that we corresponded with Mr Palladini's office and he corresponded back, saying that it wasn't his job to look after this section, so we were to contact the Honourable Mr Snobelen, so that's what we did.

(2) The Ministry of Transportation centres in our province cannot continue to allow some of the current testing practices. Currently, pickup trucks and horse trailers are being used for commercial road tests. This must stop. Automatic transmissions are being used with 20-foot trailers. These individuals are going out the next day and have an opportunity to operate vehicles that are far more comprehensive, endangering the general public. Too much time is being wasted in the in-yard testing processes at the Ministry of Transportation. Let's find out if these individuals can drive and operate a truck; let's not find out about them walking around doing a thumb test on some tires.

The MOT practical and theoretical tests must become more meaningful and, for the record, privatization of road tests will lead to worse testing standards and practices.

(3) Signing authority programs offered at community colleges must be dissolved in the true interest of road safety in our province. The signing authority program was not designed for community colleges; it was designed for carriers and the trucking industry who employ commercial operators.

The Ministry of Education and Training and the Ministry of Transportation need to decide who is responsible for training and testing. Numerous correspondence has been sent to the Honourable Mr Palladini and the Honourable Mr Snobelen by our association, only to be paid lip-service in return.

In closing, I applaud the initiative taken by David Bradley and their team at the Ontario Trucking Association. Target '97 is a terrific blueprint for the future, and it is now time to implement it into the future.

Transportation critic Dwight Duncan openly wondered out loud recently, as are many of the taxpayers of Ontario, "When will we see some action?" Honourable Mr Palladini was also quoted as saying, "We need stronger legislation." Stronger legislation needs to start at the foundation of the trucking industry with entry-level professional drivers. The printing press for licensing mills in our province needs to be stopped. Thank you for your time.

1630

The Chair: Thank you very much for your comments. Each caucus has five minutes for questions, beginning with the government.

Mr Klees: Thank you for your presentation. I'm interested in your comment that it's probably more important for a truck driver to be able to drive than to do a thumb test. I don't disagree with that. From some of the things I've experienced on the road, I'd like to do a thumb test on the forehead of a couple of drivers. That's a big problem we have on the highways today.

However, I would also think that as a driver I would be equally interested in the safety of the rig I'm driving. Surely you would agree that there needs to be a high level of competence on the part of the individual getting behind the wheel to determine whether that truck is safe enough to drive. I'm wondering whether you feel that in your training program enough emphasis is being placed on the mechanical safety aspects of the trucks and whether you would be prepared to incorporate some of that and enhance the technical aspects of the training in those regulations you're calling for to be incorporated into the training program.

Mr Richardson: Under the specifications, terms and conditions outlined for a full member of the Truck Training School Association of Ontario, they must follow the curriculum developed by Career Publishing. It's very stringent and it does include many of those mechanisms you're talking about.

For clarification regarding the testing, I agree wholeheartedly that we need these individuals to know the complexities of their particular unit as well, but I think it can be done in another fashion. What I mean by that is that a major part of the road test at the Ministry of

Transportation is spent on the circle check, upwards of 40 minutes in some cases across the province. We've heard talk about parity from some of our other speakers. There is no parity at the testing centres either.

A high portion of that could probably be conducted in the theoretical part of the test, in the written test, so that there isn't as much time being wasted in the in-yard portion of the Ministry of Transportation road test. These individuals are not getting a competent test. This is coming from the group who's training the people who are testing. You might think that we would be sitting back and saying: "It's an easy test. We should be satisfied with that." We're not. We see the results day in and day out on the highways.

Mr Klees: This gets right back to the ministry having the appropriate standards and ensuring that they're applied consistently across the board, beginning from the certification of the driver himself.

Mr Richardson: If you look at it in comparison to the bar exam, it doesn't matter where you learn and where you gain your experience in becoming a lawyer; everyone has to pass the bar exam. If we could do the same thing for the trucking industry and make the test meaningful, it's going to bring the level of the training up automatically, and, I might add, realistic training. We're seeing training being offered out there that is less than acceptable by our industry from an overkill standpoint. There has to be a happy medium.

We have that blueprint in the specifications, terms and conditions in that outline. All we need is an opportunity for the Ministry of Education and Training and the Ministry of Transportation to sit down and adopt these specs.

Mrs Marland: You're representing how many schools?

Mr Richardson: Our association represents 75% of the individuals being tested. There are currently 45 truck training centres registered under the Private Vocational Schools Act. There are probably another 40 not registered, those licensing mills we're talking about.

Mrs Marland: I want to go a little further about the walk-around check prior to them driving off with their loaded vehicle. I'm making a comparison as someone who has a pilot's licence and knows that the walk-around is very critical to the safe operation of an aircraft. If you're driving whatever tonnage it is at 120 kilometres, I would say it's a fair comparison especially in terms of risk to other people around you, perhaps even more so than flying.

Are you saying that you can train them but in the actual evaluation by the Ministry of Transportation examiners there isn't uniformity in that evaluation? Second, as one of the previous presenters this afternoon said, is it true that they don't go out in heavy traffic to drive those vehicles for their tests?

Mr Richardson: That would be very correct. In some centres in Ontario you have ministry exams being conducted with one set of spotlights, no multilane traffic.

In reference to the point you made about the circle check, the industry standard, the unwritten policy, for a circle check is 15 to 20 minutes. When we go to the Ministry of Transportation, these individuals are taking

somewhere between 35 and 45 minutes. If an individual competently passes the road test and goes to a job interview, the first time he takes 45 minutes to do a pre-trip inspection, I'm sorry, but for-profit trucking is sending this guy or lady down the road.

Mr Duncan: Have you had a response from Mr Snobelen to your letter dated October 10, 1995?

Mr Richardson: Yes, we did.

Mr Duncan: What was his response?

Mr Richardson: They banged it back to Mr Palladini and his people. We then corresponded with the Ministry of Transportation in respect to that correspondence, and we were blessed with the opportunity to have a meeting with some of the people at the Ministry of Transportation. When they corresponded back in regard to the letter, they talked about something totally different from what we talked about at the meeting. We were there to discuss training standards and testing standards and they wrote us back saying they would not be able to honour our request to test people. That's not what we were there for.

Mr Duncan: Are the three recommendations you have outlined for us — I apologize; I don't have my Target '97 — all addressed separately in Target '97?

Mr Richardson: The class A driver's testing and the class A licensing are addressed in Target '97. I think we have to applaud those efforts. Let's not put them on the shelf to collect dust.

Mr Bisson: I go back to the beginning of your presentation where you talked about the importance of making sure that drivers are properly trained, and I couldn't agree with you more. That's one part of the problem; I don't think it's the entire problem in the trucking industry.

Do you have any studies or stats or anything in your possession that points to the rough percentage of accidents that could be prevented if we were properly training our drivers in Ontario?

Mr Richardson: Target '97 asked the same question, and the committee I sat on was told there would be some statistics made available to the future committees.

Mr Bisson: That's why I asked, because I have yet to see that particular document. So you don't have anything?

Mr Richardson: I have not received anything.

Mr Bisson: Before getting off that, in going around talking to truck operators in different parts of the province as a critic for the NDP, a number of them, especially the more senior ones, point to this as being one of the big problems. Quite bluntly, you've got people being put behind the steering wheel of a truck a lot more quickly and very unprepared, which is causing a lot of problems.

Let me get to Target '97. As other people here have said, quite a bit of work was done by industry and the ministry around Target '97. At this point, that initiative, which contains part of what you're talking about here, is left in the hands of cabinet to be implemented by regulation. Do you have confidence that the cabinet of Ontario will do that by regulation, understanding that regulation means no public input, no public process? Are you comfortable with that or would you rather have some sort of public process in there?

1640

Mr Richardson: I firmly believe there was public interest at that table. I know there was public invitation

at that table. When I say that, it's similar to the stakeholders we have on our committee. You have to involve all players at the table. The Canadian Automobile Association is on our list of stakeholders and never attended the meeting. I think they represent the general public.

Mr Bisson: I guess there are two parts to the question. First, you're comfortable that there was enough public representation on the Target '97 task force. That's what you're saying.

Mr Richardson: I think all were represented, yes.

Mr Bisson: I'm not as convinced, but I accept that. At this point what we have before us is supposedly comprehensive truck safety legislation. Do you think it's such? Do you think this is comprehensive truck safety legislation we have before us? If we were to pass this bill, would this satisfy what needs to be done?

Mr Richardson: I think it has been mentioned before that if the bill is passed there are always ways to get things done once it is passed — some amendments to be made and so on. The big thing we want to support is the fact that players are at the table and we work in a harmonization effort to make those things take place.

Mr Bisson: Where we're at now is that the government has introduced this bill that contains two parts that deal with truck safety. The flying truck wheels issue, Bill 125, is brought back, as well as the whole issue of being able to give roadside suspensions. There is much more to making our highways safer in the trucking industry than just that. The Target '97 report talks about all kinds of things that need to be done, responsibility by all the players in the trucking industry: shippers, mechanics and others.

Where we're at now is that the government is saying the recommendations of Target '97 will only be implemented by way of regulation, which means there is no public process, it's not legislation and it's up to the cabinet and the Ministry of Transportation to do it when they please. Are you comfortable with that or do you think there needs to be some public and industry involvement about how we go forward with the implementations of the recommendations of Target '97?

Mr Richardson: It's a start, and I'll say that again. We have to implement and we have to get things going. From an association standpoint, we're disappointed with the efforts of the government with Target '97. There was a tremendous amount of legwork and hard work put in by industry — and I stand to be corrected — to have the possibility of one or two of these things coming to be realized.

Mr Wayne Campbell: From our point, we're truck training schools. We've worked very hard to promote safety over the years in working with the OTA etc, but a lot of work has to be done on the basic testing. If we're going to clean up the carnage on the road, or start to clean it up, we also have to work at the entry-level driver. It's great to target the person who's been out there 15 to 20 years, but when I see — and this only happened last week. A person from the Ministry of Transportation called and informed me that I can drive into the ministry with my little Neon car and a boat trailer, with no yellow safety sticker, and perform a class A road test. That is pretty pathetic.

Until those loopholes in the system are closed — the honourable member over here mentioned the pilot's licence. I've had a pilot's licence since 1969. Would anybody in this room feel confident going to the airport for your holidays knowing I'm flying your 747 or 737 and I'm only licensed to fly a fixed-wing? Something's wrong with the system. I've said you can go in with a pickup trailer and a horse trailer. I find I don't even have to use that; I can use a car with a boat trailer, a tri-axle boat trailer that's licensed for 13,000 pounds, and perform a class A test and walk away with a class A tractor-trailer licence in this province. The loopholes have got to be closed.

We should bring in something similar to what the pilots have had for years: an endorsement rating. If I do a test on a single-axle tractor and trailer — let's go back to the horse trailer scenario. This is not in any way, shape or form meant to put the farmer etc who needs that licence out of business, no. Let's classify or code the licence. We have computers that can do this now. If a person goes in and does a test, for example, on a single-axle tractor and a single-axle trailer, let's code them. Go by weight, if we have to do it that way. If a person also goes in with an automatic tractor, code the licence. If we go in with a tandem axle, which is, for anybody who doesn't know, a double-axle tractor at the back and a double-axle trailer, perhaps that should be the entry level and then we start a graduated process from there up. We go in and we have to hold our licence for so many months, whatever is decided, before we can start driving multi-unit vehicles.

But until we plug the loophole, I can go in to the Ministry of Transportation — and I just found this out last week — with my little Neon car pulling a boat trailer that's capable of 13,000 pounds, and I do not need a commercial yellow sticker, and do a class A licence. I think there's something really wrong with our system.

The Chair: Thank you, Mr Richardson and Mr Campbell, for being with us. On behalf of the committee, I thank you for your time.

Mr Duncan: I'd like to place a question to the Ministry of Transportation and the Ministry of Education with our researcher. Could we please be provided with correspondence between Mr Palladini and Mr Snobelen with regard to the Private Vocational Schools Act and the responses from the two ministries to that correspondence?

The Chair: Researcher, do you have that?

Mr Jerry Richmond: Madam Chairman, I made note of that. However, I would suggest I may well chat with the parliamentary assistant because the ministries would have access to those materials.

The Chair: We have a request to the researcher. The parliamentary assistant may wish to respond as well later on.

Mr Klees: I wonder if we could have a clarification from the parliamentary assistant, and this is pursuant to Mr Bisson's line of questioning which is intended to leave the impression that the legislation before us is comprehensive. I think it's important for the public to understand clearly that regulations that will be an adjunct to this legislation will contain many of the safety regulation issues and that the legislation, in addition to the

regulation, will in fact be the comprehensive package. I am concerned that we're leaving the impression —

The Chair: What clarification do you need, Mr Klees?

Mr Klees: I think the parliamentary assistant should reaffirm for the record that it is the government's intention that many of the concerns that are being addressed by Mr Bisson would be incorporated in the regulations.

The Chair: I am not entirely sure that's a clarification, but if Mr Hastings wants to add something very quickly, he may.

Mr John Hastings (Etobicoke-Rexdale): The bill simply deals with the three essential elements of school bus driving, the comprehensive material related to safety in the trucking industry and the drunk driving provisions. As Minister Palladini has pointed out, we will be proceeding as quickly as we can, when we get the other stuff off the legislative agenda, with the items that have not been cited in Bill 138 regarding Target '97 recommendations.

I think the member is partially right to say that we haven't included everything in here, because we're not prepared yet. All the material has not been prepared in terms of how we will follow, either by legislation or by regulation, so I think that isn't a good impression and needs to be corrected. It's comprehensive in so far as it contains those three elements that have been cited in this bill.

The Chair: For the information of everyone here, the minister will be with us tomorrow and members of the committee can certainly put that question to him.

Mr Klees: If I might just follow that up —

The Chair: I don't want to engage in debate, Mr Klees.

Mr Klees: No, not debate. I just said "clarification" because the parliamentary assistant said that I was partially right. I think I was absolutely right.

Mr Hastings: However you view it.

Mrs Marland: My question is also to the researcher for information that I believe we need. I think the last points made by the co-presenter, Mr Campbell, I think we need to know what is available in terms of the differences between the A licence and the other licences. When we're getting into the different truck categories, before we get into clause-by-clause we should know what the existing rules are today and I would appreciate that information from our researcher.

Mr Campbell: I just have one comment to make to Mrs Marland on what she said. Target '97 is fine; it looks at the class A program. But it doesn't go, to the best of my knowledge that I have seen, to the class D program. We're talking cement trucks, dump trucks etc. What is being done about these trucks? Right now, the way the Ministry of Transportation testing is, I can go into the Ministry of Transportation with a school bus and perform a class D test on an automatic vehicle, having no standard experience at all. Anybody who has been in this business — I've been in it 20-some-odd years — knows that driving a school bus is an awful lot different from driving, say, a 13-speed, tri-axle dump hauling X number of pounds. Again, this is not a debate, I realize that, but I think the ministry has to look at this class also. Let's not stop at the class A; let's do it right the first time around.

1650

Mrs Marland: I've always felt the same about standards.

Mr Bisson: I have two questions I'd like the parliamentary assistant to report back to us on, because I don't think you'd be able to give us the details now. The first one: What is the standard when it comes to getting a class A licence? We hear from the deputants here that you can pull in there with a small car and a boat trailer or a horse trailer and get yourself tested on a class A licence. That's pretty distressing.

The Chair: That's a question Mrs Marland posed as well.

Mr Bisson: There are two parts, Chair. The first part is that I want that information from the parliamentary assistant. That's where I'd like to get it from, because they are the licensing agent.

The second issue I want to raise is when it comes to the class D that you just raised, with regard to people actually being tested on heavy trucks. You're supposed to be able to drive a standard heavy truck, a 120,000-pound rig, and are being tested on automatic transmissions. I'd like to get a report on that as well. Are there standards, and what are they?

The Chair: Mr Hastings, will you undertake to report to us?

Mr Hastings: We will undertake to get you that information.

Mrs McLeod: I won't take time to reiterate, because my questions were along the same lines as Mrs Marland's. But sometimes we may not get the information we need because we're not sure of how to put the question. I just want to be sure that what the researcher is seeking from the Ministry of Transportation is some clarification around each of the licensing issues that have been raised by the presenters so that we can really find out where the gaps are in terms of updating administration of licensing.

The Chair: Thank you very much, gentlemen, for being with us this afternoon.

COM-CAR OWNER OPERATORS' ASSOCIATION

The Chair: If I could call upon Com-Car, Arthur Joosse and Gerry Dorsay. Thank you very much for being with us this afternoon. You have 20 minutes for your presentation. You may use it as you wish and we will ask you questions if there is any time remaining.

Mr Arthur Joosse: Thank you, Madam Chairperson. With respect to the recommendations of Target '97, Com-Car has been an active participant in the process and is totally in agreement with the recommendations. There are certain areas, however, which may not have been addressed with respect to owner-operators' concerns, and my association is one that represents well over 2,700 owner-operators in Ontario. I feel that some of these concerns may be of value to the committee.

Com-Car Owner Operators' Association has been in existence since 1972. We represent actual owner-operators of trucks. As such, these owner-operators may work for either a common carrier, a private carrier or for themselves. It's always been our intention, especially with

our board of directors, to try to get the viewpoint of the actual person driving the truck. Com-Car's mandate has been both an educative and a lobbying concern within the trucking industry, based on representing its members.

I am president of Com-Car. Mr Gerry Dorsay, who is sitting beside me, is one of our directors. We have a board of 36 directors. I have had an active role on the Canadian Trucking Human Resources Council, as well as being represented on the Ontario Trucking Association and the Canadian Trucking Association. I must say that I know the OTA is going to make a presentation after myself and I feel that a lot of the things that I might have to say will more than likely be covered by them. However, to that end, Com-Car would like to make the following additional representations with respect to the items listed below.

The first one is wheel detachments. At a recent meeting of Com-Car's board of directors, great concern was expressed with the fact that the manufacturers of both trucks and trailers may not be liable for a wheel separation. Com-Car in fact has given the current Minister of Transportation a copy of a warning presented by a major US trailer manufacturer which warns against the possibility of a wheel separation simply because of defective welds on the axle housing of its trailers. The remedy to my mind was so farfetched it was laughable. The manufacturer suggested that there not be a recall but a warning to the owner that the welds must be frequently inspected for cracks. Current legislation, as I see it proposed, does not allow for manufacturer neglect.

Further to the above, Com-Car's board has also taken strong objection to the fact that manufacturers or maintenance facilities may be using substandard fasteners and parts which will not withstand the rigours the part or fastener may be designed for. The case in point is one in which an owner-operator noticed a wheel stud going missing in a Budd wheel simply because the shoulder of the stud had collapsed under continuous tightening of the assembly. We're always telling these drivers or owner-operators, "You've got to make sure that these fasteners are well-fastened." But if it's a substandard fastener, then what are you going to do?

That is why absolute liability for a wheel separation may not be the answer. Owner-operators are small businessmen and as such they may not have either the resources or legal representation to mitigate for themselves. Owner-operators pride themselves in showing due diligence in doing proper pre-inspections, and if there happens to be a wheel detachment, it is felt that there may be some need to have shared responsibility for same.

The most important question asked at my board of directors' meeting was: "What happens when there is a wheel separation on MTO vehicles or OPP trucks, as has been the case within the last two months? Who ultimately pays the fine, the taxpayer?"

Driver training: Currently a new driver can be graduated through a driver training school within as little as three days of training. Proper and enhanced class A driver training can only be an enhancement to truck safety in Ontario. Com-Car expresses regret that more emphasis is not placed on proper training standards, and suggests that legislation be in place which would allow

for the regulation of truck training within the province. The airline industry, through deregulation, still has very high standards with respect to training, whether this be pilot training or maintenance training. Why is it that the insurance industry insists on at least three years of experience for the driver to qualify for the best insurance rates? The more legitimate question is, why does Target '97 address non-compliance with safety standards by carriers as tantamount to removal of operating rights within Ontario, yet we will not legislate proper training and experience for entry-level drivers?

Statistics indicate that entry-level drivers are more prone to initial accidents than experienced drivers. Why wouldn't Ontario be more than eager to ensure that maximum training be achieved by training deliverers in order to ensure better safety in the trucking industry? The standards have been developed. There has to be some regulatory mechanism in place to ensure their implementation.

Hours of service: Com-Car totally endorses the Target '97 recommendations. There is one issue that may not be addressed that is crucial to an understanding of some factors which may still contribute to a driver not being able to ensure proper rest, and that is a lack of rest areas within the province. The Highway 401 corridor has rest areas attached to the service centres, but these areas have been curtailed and diminished to the point that the facilities for proper truck rest areas are grossly inadequate.

Furthermore, the Trans-Canada corridor in northern Ontario has no rest areas at all. Where is the truck driver supposed to rest when he hauls from Winnipeg to Toronto? There is absolutely no capacity for trucks to stop and park along Ontario's northern highways. Surely we cannot park alongside the road.

Driver fatigue is an issue which has had a lot of attention both by Canada and the US. There are no easy answers, but there has to be an answer for a driver who does become fatigued so that he or she can pull over safely and have that necessary rest.

Truck maintenance and inspection standards: Even though there is every reason to require owner-operators to maintain and inspect their equipment, there is an equal responsibility for government to maintain the roads this equipment uses. Poorly maintained roads contribute to quicker and accelerated deterioration of equipment. Perhaps every provincial MPP should take a truck ride from Thunder Bay, Ontario, to Winnipeg, Manitoba, to appreciate the fact that northern Ontario has the poorest quality highways in Ontario, any other North American jurisdiction. Ladies and gentlemen, that problem has to be addressed.

I want to thank you, Madam Chairperson, for your very kind attention.

1700

The Chair: Thank you very much. We have a little over three minutes per caucus.

Mr Duncan: I'd like to come back to the question that you are now the second delegation to raise, and that's around the education or training for a class A driver's licence. We've now had two delegations express very serious issues around that. What are Ontario's training

and education standards like relative to other comparable jurisdictions, let's say the state of Michigan or the state of New York or the province of Manitoba?

Mr Jooisse: When I look at the provincial legislation, I know that Newfoundland is legislating training standards in respect to their Department of Education. I know of no other jurisdiction that's doing any legislation at this point in time. With respect to the United States, there's not much being done in terms of providing standards or even maintaining standards in regard to training.

Mr Duncan: Would it be fair to say — I take it from the last answer it may not be fair to say — that it would be easier to get a class A licence in Ontario than in one of those other jurisdictions?

Mr Jooisse: I don't know whether or not it's really easier, but I can say this: I've got a couple of my members who come to me from the United States and it took no time at all for them to get a class A licence right here in Ontario. I don't think that's right.

Mr Bisson: I couldn't agree with you more on the driver training issue. I think it's something that needs to be moved on. I think that's recognized by industry and drivers alike.

I can't help as a northerner just touching on this one point. One of the reasons, quite frankly, why highways are in bad shape in northern Ontario is a lack of money. That's been a problem for all governments, not only this government but governments before it, because you've got long stretches of geography to span with highways, over 1,000 miles in some cases, and it's pretty expensive to keep up. The other thing is that there's a lot of truck traffic, which adds to the wear and tear on those highways. I couldn't let that go by, because having driven Highway 11 almost every week for a number of years, that's part of our problem.

I have to ask you the question on the Target '97 stuff. There's been a lot of work done, a lot of which is good work that I would like to see this government move forward. We're hearing the parliamentary assistant say some of it is by way of regulation; now some of it will be by way of legislation. Which do you prefer? Would you rather a public, accountable process so that when we move forward on Target '97 the stakeholders in industry and in the public are involved, or leave it in the hands of cabinet?

Mr Jooisse: I think that in terms of the Target '97 recommendations, the stakeholders were consulted. I feel very happy with the input we've been able to have in terms of stakeholders. I don't really understand the provincial process, but I've been very happy with the amount of work we've been able to do anyway within Target '97.

Mr Klees: I think what you're telling Mr Bisson is, let's get on with it and get implementation on the road rather than continuing to debate this issue. We can go round and round.

Mr Jooisse: If I could just comment on that, when Target '97 was formed, I sat on the policy committee; I chaired one of the committees, and I'd note that I sat on all the others. We were under a lot of pressure in order to get Target '97 recommendations before the minister,

and I really think it's very important for us to continue whatever Target '97 initiated.

Mr Klees: Good. Thank you. I appreciate that affirmation of the need to get on with implementation.

There is some discussion about the fact that a competitive environment is perhaps contributing to the unsafe conditions in that there's some pressing need for safety to be compromised on the part of carriers to get the job, that they can't afford, if you will, to spend the money to get the rigs up to safety standards. Is that the case? I'd be interested in your comment on that.

Mr Joesse: I think Mr Dorsay could answer that because he owns a few trucks and he obviously knows what the costs are.

Mr Gerry Dorsay: You don't need to take the work on if you're going to compromise or hurt somebody out in the public. You just don't need to. Leave the work there. Let somebody else do it. Safety has got to be the priority, nothing else.

Mr Klees: Certainly we agree with you. However, the reality is that it appears that something is motivating the unsafe trucks to get out on the road. Is it the fact that they're competing for business? If that's the case, how do we deal with it?

Mr Dorsay: Competition is high for the freight. The shippers have to realize and be brought into the picture to show them that what we're asking for is what we need. They think they can get everything done for nothing. It's a shipper's paradise out there. You do it for a dollar; he'll do it for 99 cents. You want the work, do it for 99 cents. Nobody's making any money. It's just a fight for the freight and winner take all. When you're doing it and you're not making money, something has to give, and unfortunately it's safety. The tires are going to go longer. Oil changes are going to go longer. That's just the fact of it all.

The Chair: Thank you, Mr Joesse and Mr Dorsay, for being with us today and telling us of the view of your industry.

Mr Bisson: I'd request the following information from the parliamentary assistant. Could you provide us with any kind of documentation on how we compare as Ontario jurisdictions when it comes to hours of work for drivers against Michigan and other jurisdictions?

The Chair: Thank you.

1710

ONTARIO TRUCKING ASSOCIATION

The Chair: I call upon the Ontario Trucking Association, David Bradley. Welcome to the committee.

Mr David Bradley: Thank you and good afternoon, ladies and gentlemen. I am delighted to be here. Those of you who know me know I usually like to speak from the cuff. I'm very passionate about these issues. I apologize in advance if I seem a trifle impatient with the progress on some of these issues, but to make sure that my comments are clearly understood today, I'm going to read from a prepared text.

The face of the trucking industry that has been painted by some over the past couple of years is not the face that I see every day. This is not an industry dominated by

rogues and uncaring automatons. The trucking industry is a people industry, a community, and it is also part of your community.

The faces I see are like those who are joining me here today, and there are also a number of people seated behind me, people like the members of the OTA Road Knights team of professional truck drivers, men and women who, despite having only a precious few hours at home each week, make over 300 public appearances a year speaking to safety organizations, service clubs, young drivers, church groups and others about the importance of safety and how all drivers can safely share the roads.

It's the faces of the owners of trucking companies who are also here today, people like Paul Hammond, president of Muskoka Transport in Bracebridge and OTA chairman; George Ledson of Georbon Transportation in Bolton; Fred Leslie of Canada Cartage in Etobicoke; and Scott Smith of J.D. Smith and Sons of Downsview, all of whom are here today. These are family businesses of multi-generations, the backbone of Ontario entrepreneurship, with deep roots in their communities.

I see the industry in the faces of countless others who cannot be here today, people who live in your communities, people like truck driver Robbie Laframboise of Canada Cartage in Etobicoke, who rescued Tanya Aubert of Bolton on April 1 of this year when he protected her car with his rig on Highway 401 after the hood of her vehicle suddenly flipped up, blinding her to traffic — Aubert was eight months pregnant at the time; or driver Brad Edwards of Harmac Transportation of Concord, who received the OPP commissioner's citation for lifesaving after saving the lives of victims involved in a fiery crash on January 23 of this year on Highway 11 near Noble; or Scott Ferguson, who drives for Mackie Moving Systems of Oshawa, who pulled an unconscious driver from a car just before it blew up on March 18 of this year; or Stewart Cameron of Meyers Transport in Peterborough, who saved a fellow trucker from a burning wreck in the early hours of October 29, 1996, on the 401 near Cobourg.

All these drivers risked their lives to save the lives of accident victims at roadside and were honoured for their heroic actions with the Award of Valour earlier this month during National Transportation Week.

It's people like Jim Taylor, the OTA member who developed a bumper sticker campaign which said, "My Canada Includes Quebec."

Every day, more trucking companies and their employees than I am able to begin to relate are involved in acts of goodwill and charity. At the risk of excluding many worthy of recognition, I point to just a few.

Over the past 13 years, TNT Canada of Mississauga and its employees have raised over \$700,000 for the Sudden Infant Death Syndrome Foundation. Canpar of Mississauga has raised almost \$150,000 for the Children's Wish Foundation in recent years. Challenger Motor Freight of Cambridge holds an annual industry-wide event to raise money for Big Sisters. Al's Cartage of Kitchener, Erb Transport of New Hamburg and countless others transport thousands of pounds of food at no cost for Ontario food banks.

It's the 17 Ontario trucking companies and their drivers who transported a teddy bear from one end of Canada to the other to help raise awareness of the Sunshine Foundation, a charity that makes dreams come true for disabled and terminally ill children.

It's the countless industry volunteers who organize the annual Truckfest in Cambridge, which attracts about 20,000 people a year and raises much-needed funds for Child Find Ontario and other charities.

It is also an industry of common, everyday acts of courtesy and kindness, the people that Ontarians tell us every day in our office they want to be the first people on a scene when their car breaks down at roadside.

It is all of the people who 24 hours a day are providing the lifeblood of the Ontario economy by hauling over 75% of all consumer products and foodstuffs and over 80% of Ontario's trade with the United States, which just happens to represent about 37% of our GDP.

In terms of safety, truck drivers and trucks are, as a group, the safest drivers and vehicles on our highways. You don't have to take my word for that. Simply look at the Ontario Road Safety Annual Report, a report produced by the Ministry of Transportation which year after year shows that tractor-trailers are involved in less than 3% of all the accidents on Ontario's highways and that truck drivers are not at fault in the vast majority of those. And this is interesting: Vehicle defects continue to show up as a minor contributing factor to the most serious accidents. This seems to be in direct conflict with the highly publicized results of various road blitzes. Were as many of the vehicles truly unsafe, as supposedly reflected by the out-of-service results of some of these inspections, I believe most reasonable people would anticipate a much higher accident rate than that which exists.

But we should be the best. We are professionals, after all, and we have the added responsibility of sharing our workplace with the public.

Are we satisfied? No. We know there are problems within our industry. We've never tried to hide it; we've never tried to be defensive about it. There are some bad companies. There is bad equipment on the highways. Some are trucking companies; many are not. About half the trucks on the road are not operated by companies whose principal business is trucking. We want the unsafe companies off the highways as much as anyone. It is not only a moral issue for our members but a bottom-line issue as well.

Those who are making the appropriate investment in safety and maintenance continue to see business lost to and prices cut by those who are cutting corners on safety and maintenance. Shippers have had the best of all worlds: rock-bottom freight rates and no accountability or liability in terms of whether the carrier they have selected to move their goods performs safely. Provincial and municipal governments have not been immune from this practice.

Wheels should not be coming off trucks, no doubt about it. Our hearts go out to those Ontario families who have lost loved ones for no good reason. I have met with all of them on several occasions. I believe that OTA has and continues to demonstrate its commitment to solving the wheel separation problem. For example, in the past

several months we developed, in partnership with the government, the training and certification program for wheel installers, the single most important recommendation of the Worona-Tyrrell inquest.

Since the fall, about 10,000 people have been trained to OTA's standard and it has not cost the taxpayer one penny. We have also been involved in or embarked upon several other safety initiatives, such as drug and alcohol testing for drivers, with 400 companies and 16,000 drivers presently enrolled in this program; an air brake adjustment training program; a driver fatigue awareness program; and other initiatives too many to mention. You have information in your packages with respect to all of these.

The current Ontario government, like other governments before, has also introduced a number of helpful laws and programs. But what we have been lacking and what OTA has been calling for for over a decade is a comprehensive, integrated and effective truck safety regulatory system. We are still not there, but at least we now have a blueprint, or a roadmap, if you will, for reform. I'll speak to that momentarily.

The public and the industry have been let down by a flawed, antiquated, arbitrary and often ineffective set of rules and standards governing truck safety. The current rules, while well intentioned, have failed to define what is meant by "unsafe." They have failed to clearly and scientifically identify who is "safe" and who is "unsafe." We throw those terms around like they mean nothing. This prevents government from more efficiently allocating its enforcement resources towards the unsafe operators and providing real market incentives to those who are doing the job on safety.

The current system has failed in putting the unsafe operators out of business. In fact, we have two extremes. The worst offenders continue to operate, often with relative impunity, snubbing their noses at the public, while those who are doing things right and working hard at it every day have been subjected to a maze of confusing and ineffective regulation and at times harassment. The atmosphere at some of the recent truck inspection blitzes has become almost carnival-like, with everyone jumping to get their face in front of the TV cameras. Before too long, and I say this in all seriousness, I would not be surprised to see someone selling hot dogs and doughnuts at these blitzes.

We can, as we have done in the past, continue to respond to this tragedy, or another, by introducing partial or at times politically motivated measures to address truck safety. All governments have been guilty at one time or another of failing to match their rhetorical concern over truck safety with the legislative time, resources or thought needed to introduce meaningful, long-term remedies. Sometimes government has been abetted by industry in this regard, and I don't deny that. We can and should choose another path, however, and now is the time: one that deals in a comprehensive, integrated and consistent way — though safety will always be an evolutionary process and we should recognize that — with all the essential issues and create the regulatory system that will lead us into the next century.

It was my pleasure and honour to serve as co-chairman, along with the Ministry of Transportation's assistant deputy minister of safety and regulation, of the Target '97 task force on truck safety that was introduced last fall by Minister Al Palladini. I took that role very seriously. I said at the time that I didn't care if I was ever selected to be a co-chairman of anything again, we were going to get the job done this time.

The task force assembled the most impressive group of stakeholders ever: MTO, OTA, for-hire and private trucking companies, the OPP, insurance companies, representatives of drivers, and transportation service organizations. The members of the task force set very tight time frames for its work. This was not to be another task force that spends years studying something to death and then lets the report collect dust. Our work plan was ambitious.

We reviewed and made recommendations for change on all the key safety issues: revamping the CVOR system; creating an effective safety ratings model; consolidating and enhancing vehicle inspection and maintenance regulations; amending the hours-of-service rules so that they better reflect fatigue management principles and industry operating realities — you know, the current rules were developed in the 1930s; improving the class A driver's licence test, which you've heard about already this afternoon and which is an embarrassment; and setting in motion changes to upgrade the training of class A drivers.

1720

The task force made 79 recommendations in all, dealing in detail with each of the aforementioned issues. I believe that some of the industry's harshest critics were taken somewhat off guard by the comprehensiveness of the recommendations and by their toughness. However, it must be understood that from OTA's perspective, Target '97 is a package deal. It cannot be cherry-picked. To do so would sacrifice the balance that has been struck in the recommendations and undermine their effectiveness.

Target '97 was not an exclusionary process, as some have suggested. Target '97 was from the outset a government-industry task force — nothing more, nothing less. From OTA's perspective we wanted to get the issue of truck safety out of the public relations arena and into a forum where we could accomplish real change. I do not agree that the public was excluded. There are some of us in today's society who still believe that the government is the people.

But more substantively and to the point, I certainly recognized that whatever legislation or regulatory measures would arise out of Target '97 would be subject to the same parliamentary procedures, including the avenues of public input, as any other policy or piece of legislation. These hearings I must say are a testament to that. To suggest that Target '97 was a backroom deal cooked up by big business tycoons and political mandarins smacks of sour grapes and is, quite frankly, an insult to all of those who made Target '97 work.

With respect to Bill 138, OTA wholeheartedly supports the legislative proposals for drinking and driving, which is and remains the major killer on our highways. Obvi-

ously, we also favour the measures to improve school bus safety.

However, from a trucking point of view, Bill 138 is but a step on the way to dealing with the trucking issue in a comprehensive fashion. It contains but one of the 79 Target '97 recommendations, that being the impounding of unsafe trucks.

OTA has always supported getting unsafe equipment off our highways and therefore supports, as we did during Target '97, this proposal. However, this measure will only work if it is supported by a definition of what is meant by "unsafe" or at least clearly lays out the criteria for when a vehicle is so defective that it should be impounded. Simply taking a vehicle out of service does not mean unsafe. The Target '97 task force developed a government-industry consensus on what the criteria should be, and I am hopeful that the government will follow it.

The only other truck safety measure included in Bill 138 was the controversial proposal to introduce automatic fines for wheel separations from \$2,000 to \$50,000. OTA has no objection to the introduction of heavy fines to be paid by a company that does not properly maintain or inspect its vehicles. But what we do object to and what we feel will ultimately be deemed unconstitutional is the government's insistence that the wheel separation fines be made a matter of absolute liability. In other words, in the event of a wheel off, the trucking company is held responsible and is guilty as charged whether or not the company was actually at fault.

It is easy to dismiss our concerns in this regard. After all, people's lives have been lost, as I said earlier, for no good reason. Families have been deeply and profoundly shattered. But that is precisely why this proposal must be legal and why it must clearly lay responsibility at the feet of those who are truly at fault. While in many of the wheel separation incidents we have seen so far, despite the fact that the information we have to make these judgements is deplorable, in many cases the apparent cause points in the direction of improper maintenance and inspection, we also know from the 1995 coroner's inquest that improper installation, often by an independent third party at roadside or in a shop, often in the middle of the night, often way up north or somewhere else in the middle of nowhere, can be the cause.

Wheels come off for many reasons, some technological, some a reflection of the human factor. Absolute liability is supposed to be reserved for minor infractions and minor penalties. These are not minor infractions, nor are the penalties minor. Our justice system is founded on the basic premise that someone is innocent until proven guilty. By deleting the absolute liability clause, leaving open the door for an innocent motor carrier to launch a due diligence defence, Bill 138 would give up none of its effectiveness.

There are some recent examples where a wheel-off incident has occurred, or could have occurred, where the trucking company was clearly not at fault. Take the case of Lloyd Hutton Transport, a livestock hauler from Paisley, Ontario. On January 10 of this year, the wire services, radio stations and everything else were abuzz following yet another wheel separation incident on

Highway 400 north of Barrie. Radio stations in Hutton's own area, particularly in Owen Sound, shouted the company's name over their regular newscasts. It was once again trial by the media. However, a day or so later the OPP explained what had really happened.

The situation began at a customer site when the Hutton driver noticed during unloading that his trailer had two flat tires. He immediately called a tire service company to come and replace them. Once this work was complete, the driver commenced his trip. No more than 45 minutes later, the reinstalled wheels flew off the trailer, striking a van. Rather than pointing the finger of blame at Lloyd Hutton Transport or its driver, the OPP was properly investigating the tire service company. Clearly, it would not be fair to convict and fine the trucking company in this case. The owner and the long-time driver were deeply shaken by the incident.

Take also the case of MacKinnon Transport in Guelph, Ontario. In 1991, the company purchased nine four-axle trailers from the same manufacturer, from the same distributor. In 1994 one of the axles failed, causing the wheel assembly to become separated. Luckily, nobody was hurt. The axle was returned to the manufacturer, a US manufacturer, for inspection and it was eventually replaced under warranty.

MacKinnon Transport experienced no further problems until this year, when another axle failed on a different trailer, again causing a wheel separation. Upon further investigation, the axle supplier has informed MacKinnon Transport that a selected group of axles purchased by the trailer manufacturer could be of insufficient hardness at the bearing seat area. In other words, there was a manufacturing defect. All of MacKinnon's axles are now being identified and subjected to additional testing and inspection. Is it fair that the trucking company be held responsible under absolute liability in this case?

I have with me samples of some other problems that were given to me just this week. I'd ask one of my people to stand up and show them to you and then to pass them around.

The first thing he's going to hold up are two fasteners, typical of those installed on what are called hub-piloted wheels. Looking at them, it is hard to tell the difference. I can't, and I challenge you to. However, one of them was manufactured offshore and is of the kind that was installed on a number of new trailers manufactured by a reputable US trailer manufacturer and purchased late last year by Pronorth Transportation in North Bay. The problem was that the fasteners would not hold their torque, causing the wheels to come loose. Pronorth was lucky to discover the problem before a wheel-off occurred and required the manufacturer to replace all the fasteners. The new fasteners, manufactured in the USA — and one of them is in front of you — are now installed on all the wheels. The cost to the carrier is virtually negligible. No carrier in their right mind would scrimp on this kind of thing, but the downside obviously could have been enormous.

I also have with me to show you two brand-new wedges of the kind you will typically find in a spoke-wheel system. These were provided to me this week by Keatly Cartage of Arnprior, Ontario. These wedges were

manufactured in the USA by a major, worldwide component manufacturer, one that's involved in the space program and other high-tech industries. However, as you will see, one is cracked; the other is broken completely. These wedges were properly installed using a torque wrench set at the manufacturer's recommended torque. Again, Keatly Cartage was lucky that the wedges cracked during installation. But what if they hadn't? Would it be fair to hold the company absolutely liable if a wheel had come off? We think not.

Bill 138 should be amended to restore a trucking company's right to mount a due diligence defence. We ask the committee to do the right thing, not the politically motivated thing, during clause-by-clause. Should you not, we have every reason to believe the law will be struck down by the courts.

In closing, Target '97 is the blueprint for reform. Only by implementing its recommendations will Ontarians have comfort and confidence in knowing that their province has the most comprehensive and effective truck regulatory system perhaps on the planet.

We owe that to the victims of the recent tragedies involving trucks, but we also owe it to the 200,000 honest, hardworking men and women of the Ontario trucking industry, who provide this province with an essential service and do it efficiently and safely, day in and day out. These Ontarians are feeling diminished, they're feeling hurt by the negative attention their industry has received because of the actions of a few, and by the failure of a regulatory system to which they are subjected to rid the industry of the bad apples and provide real competitive advantages and a return on their investment in safety.

Thank you very much. I'm sorry for having gone over my time, but as I said at the outset we are extremely passionate about this topic.

The Chair: Thank you very much, Mr Bradley. As you've indicated, you have exceeded your time. I regret we won't have time for questions but we thank you for your presentation, and everyone who has come with you today.

1730

ONTARIO SAFETY LEAGUE

The Chair: Could I call on the Ontario Safety League, Bert Killian. We're delighted to have you with us this evening.

Mr Bert Killian: The Ontario Safety League has been involved in driver education since 1913. I've been involved for over 30 years in safety. It's the first time, in Target '97, that I saw so many groups getting together and coming together to deal with safety. I think it was a tremendous achievement of both the co-chairs, how they brought that together, because safety is everybody's business and the trucking industry is quite aware of that.

To achieve the high level of road safety in Ontario, all stakeholders in transportation must work in conjunction as responsible partners to develop and implement strategies for regulatory compliance.

This must begin by focussing on the issue of responsibility: being aware of what to do, being compelled to do

the right thing and being accountable for one's actions. To this end, a comprehensive and progressive system of education would provide all members of the transportation industry and its clients with the information required to operate in a safe, legal and profitable manner.

The system must be comprehensive in both who and what it deals with, and progressive in how it functions. "Who" is the shippers, the CEOs of the companies, the trainers and the drivers; "what" is that with the regulations at all levels they must know what to do; the shipper's liability, which was discussed; operator's liability, which was discussed, and responsibilities; vehicle maintenance and driver training, all of which you heard about.

We believe the first stage of all this has got to be education; that's awareness of what to do. All of the companies, all of the shippers — there's a lack of information as to what is required. We're not talking about the good operators. We're talking about those individuals who are getting in trouble. I've spent several years interviewing these people and what their problems are. They don't understand what the responsibilities are, what is required.

Education: to ensure this. Monitoring: to ensure compliance with what they're doing. Assist to rectify the deficiencies is when remediation comes in and something has to be done about it. Then, if that does not happen, sanctions against, and enforcement.

If you look at the statistics regarding the trucking industry, there are 70,000 to 80,000 CVOR holders out there today and only 6,000 of those get warning letters. Of that, 1,200 get to interview level, and of that, only 200 get to sanctions. So with an education process, there is a possibility — it's the same as the demerit point system. Once people get a warning letter that they've reached six points, they smarten up their driving. They don't get to the nine points, but at the nine-point level, if they do get there, at the interview level, there seems to be an increase in that. Again, it's the same in the trucking industry.

A responsible partnership for the transportation industry can only function through broad cooperation at all levels and from all sectors, from the shipper to the operator to the trainer and the driver; from the Ministry of Transportation and other ministries and governments that deal with transportation, education and commerce; and from all road users and industry partners.

Mr Bisson: I couldn't agree with you more. Basically, in a nutshell, what you're saying is what a lot of us who are interested in this issue are saying, which is if you're going to come at the issue of truck safety, you can't come at it from just the one point or another, either just fines or just focusing on drivers or just focusing on shippers. You really need to come at this from a comprehensive point of view. That means shippers, carriers, drivers, manufacturers, regulators, the whole kit and caboodle have to come into it.

I come back to the question, and for whatever reason I seem to be raising the ire of Mr Klees on the other side when I ask this question, but I think it's a question that needs to be asked and I'm not doing it in a combative way. The government undertook with the trucking

industry and others a very comprehensive process, which I think was a good one, called Target '97. In Target '97 the committee took a look at a whole bunch of issues, and a whole bunch of the things you talked about were part of it. I thought that was a step in the right direction. I applauded the minister for the introduction of that initiative, Target '97. I met with a number of people in industry who were involved and I thought it was a very good process.

Here we are at the end of Target '97. The report has come in and we have a minister who says, "I will introduce comprehensive truck safety legislation come this spring." Is this legislation comprehensive truck safety legislation? Does it contain the stuff of Target '97?

Mr Killian: It's a beginning, and you have to start someplace. Within the organization you have to do something to begin. It's too comprehensive to bring it all in together. So this is a beginning.

Mr Bisson: So you favour chopping it up in different pieces?

Mr Killian: I believe this is a beginning in Target '97's momentum, because it's a tremendous getting together of industry and government. It should not lose the momentum.

Mr Bisson: You would rather see an approach where we deal with pieces of Target '97 rather than a whole package.

Mr Killian: I would prefer all of Target '97 but it's not practical.

Mr Bisson: No, I understand, but I'm talking about the process. Part of the problem that industry and others have is that they don't understand the legislative process. That's not their fault. It's just the way of the system. In reality there are only so many legislative days a Legislature has and members have to pass bills.

The reality is that if we pass Bill 138 — which I think is a step in the right direction; I haven't heard anybody on any side of the House say Bill 138 is a bad bill; in fact there's some really good stuff in here — it's probably going to mean there'll be that much less pressure on the government to deal with all the other recommendations in Target '97. I, for one, support what's in Target '97, a good part of it, and I want to see the ministry and the government come forward in dealing with all the issues such as driver fatigue and carrier responsibility, dealing with some of the issues you raised here.

The problem, and somebody said it earlier, is that a lot of this is politically motivated. How governments react to an issue is by the ire of the public. At this point people might think everything is fine in the trucking industry after this bill is passed. I worry about doing this in a haphazard way. I would have much rather seen comprehensive truck safety legislation, and I don't believe this is.

Mr Hastings: I'd like to ask you a question regarding the specifics of how you see the implementation of the responsible partnership you have alluded to and referenced in your presentation. How do you see that being implemented, in terms of an administrative partnership, administrative agreement, some kind of a codification of responsibilities for each of the players within that partnership?

Mr Killian: There are several ways you can do it, but I believe there are enough safety organizations and associations. There's the private motor carriers, the OTA, all of those, and then there are safety groups like ourselves who will work with those people in the truck-training areas. So there are several ways a lot of this thing can be brought together. I think there's enough initiative that started in Target '97 that can be built on. Any way of pulling it together with the incentive of government to do that rather than government doing it I think is very important.

1740

Mrs Helen Johns (Huron): I just wondered if you would comment on something that was said. It seems they view things in very black and white terms. It's either a mechanical failure or it's a driver failure, and quite frankly the people of Ontario I've talked to along the line are sick of everybody passing the buck from one place to the other place, and they just want us as a government to deal with it. So we get caught in kind of a dichotomy here where the public are saying: "Deal with this issue. Make it strong."

I don't see how we can meet the objectives of the people who are asking us to deal with it efficiently, effectively, quickly, and try and take into effect whether it was a mechanical failure or a failure from a driver's point of view. Is there a clear way that I just can't see as a normal taxpayer driving my little car to work every day?

Mr Killian: It's very comprehensive. I spent over 28 years dealing with this on the highways within the Ministry of Transportation. It's a difficult situation to try and get everybody involved. The good operators Mr Bradley talked about won't get into this problem, and if they do, they have reasonable areas to deal with, as he outlined. It's the irresponsible operators out there who are the real problem. The problem is we're dealing with everybody, we're lumping everybody in.

If we can get a profitable and fair operation for the good carriers so they have incentives to move ahead, obviously with the Avion system where they can bypass the truck inspection stations, where they get a good safety rating and get shipper preference, those are the areas you've got to concentrate on, rewarding the good carriers. That will take a lot of the pressure off everybody. It'll take the pressure off the good carriers, it'll put pressure on the bad carriers and it'll take pressure off the government in general. That is my opinion.

Mr Klees: This hasn't come up before, or maybe it has. The question I have for you is to what degree you feel safety would be enhanced if on our highways, trucks would be restricted from using the passing lanes.

Mr Killian: I'm not too sure —

Mr Klees: Unless passing.

Mr Killian: Yes, unless passing. Height sometimes restricts that anyway with the bridges. I'm not too sure that out in that lane or restricted to one lane is going to do anything different because they're going to get impatient in that lane as well. That was okay 10 years ago, but the trucks we're driving now can operate as fast as the vehicle traffic.

Mr Klees: A lot of them go a lot faster than my vehicle.

Mr Killian: Sure, yes. I'm not too sure that would contribute a lot to that, and that's just a personal opinion.

Mr Duncan: Target '97, comprehensive overview with a whole range of recommendations, one being implemented in this bill, a couple of others have been implemented — as somebody who's concerned about safety would you support an amendment to this bill that would call upon the employment of a public monitoring body as we implement those changes to make sure they're fair and balanced and they're properly applied?

Mr Killian: You could. It's one way of doing it. There are several ways of doing it. I think the public will operate as the monitoring body for you. They are very aware of what's going on right now in the —

Mr Duncan: I might differ with you there, because as you know, some of the recommendations are absolutely fascinating to the trucking industry but kind of make other people's eyes glaze over. I think Mr Bradley made the point that a lot of this has become something of a media circus in a lot of ways. One of the concerns we have as the official opposition — in fact, I drafted a bill that dealt with a number of Target '97 recommendations that aren't included in this bill — is that we have a way of ensuring that the balance of those recommendations are implemented in a timely fashion.

I'm just looking for your ideas as to how we can ensure that. Maybe I should have had the opportunity to ask Mr Bradley this, but he made the point that over the years a number of governments have taken a run at this but nobody's done anything comprehensive. He's worried, I take it from his presentation, that the good work that was done on Target '97 could be lost if we just start cherry-picking certain recommendations.

Mr Killian: There's always that danger, and as I indicated at the beginning, in the 30 years I was around I've never seen such a comprehensive group of people getting together with a lot of personal agendas and coming together around the table with those recommendations. I don't think that group, as a group of Target '97, will allow that to happen anyway. That's my opinion.

The Chair: Thank you, Mr Killian. I appreciate that you stayed till the end to appear before us. We really do appreciate your testimony before the committee.

Mr Killian: If anybody needs translation services, I'll give it after.

The Chair: Mrs Marland, I believe you have a question.

Mrs Marland: Yes. I had a very important supplementary question to Mr Klees's question, but I will redirect it to our researcher. That was following on the question about whether trucks should use the passing lanes. I would like to know if I'm still correct that trucks may not drive or even pass in the median lane on the 400 series highways. I understand that is the law and I would like to know whether it can be confirmed because I think we all see violations of that.

The Chair: Very well. The question is noted and the researcher will endeavour to respond to it.

Mr Klees: Before we break I wonder if we could get clarification. We may at this table have a very serious conflict of interest related to a previous presentation. It has to do with the presentation made by the Ontario

Trucking Association. If you have your copy of the presentation itself, there's a picture on the front of the presentation. I wonder if we could have Mr Bisson confirm whether that is in fact him standing in the picture, because if it is, I'm not sure of the objectivity of his questions.

Mr Bisson: Just to clarify, do you have a problem with the OTA presentation or the picture?

Mr Klees: It was the picture I was concerned about.

Mrs Marland: It's a wonderful picture, Gilles.

The Chair: Thank you very much for bringing it to our attention. I think no comment is required at this stage.

We are adjourned until tomorrow afternoon. I remind you that we meet here at 3:30 pm.

The committee adjourned at 1747.

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**Standing committee on
social development**

**Comité permanent des
affaires sociales**

Comprehensive Road
Safety Act, 1997

Loi de 1997 sur un ensemble complet
de mesures visant la sécurité routière



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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Tuesday 17 June 1997

Mardi 17 juin 1997

*The committee met at 1530 in room 151.*COMPREHENSIVE ROAD SAFETY ACT, 1997
LOI DE 1997 SUR UN ENSEMBLE COMPLET
DE MESURES VISANT LA SÉCURITÉ ROUTIÈRE

Consideration of Bill 138, An Act to promote road safety by increasing periods of suspension for Criminal Code convictions, impounding vehicles of suspended drivers, requiring treatment for impaired drivers, raising fines for driving while suspended, impounding critically defective commercial vehicles, creating an absolute liability offence for wheel separations, raising fines for passing stopped school buses, streamlining accident reporting requirements and amending other road safety programs / Projet de loi 138, Loi visant à favoriser la sécurité routière en augmentant les périodes de suspension pour les déclarations de culpabilité découlant du Code criminel, en mettant en fourrière les véhicules de conducteurs faisant l'objet d'une suspension, en exigeant le traitement des conducteurs en état d'ébriété, en augmentant les amendes pour conduite pendant que son permis est suspendu, en mettant en fourrière les véhicules utilitaires comportant des défauts critiques, en créant une infraction entraînant la responsabilité absolue en cas de détachement des roues, en augmentant les amendes pour dépassement d'un autobus scolaire arrêté, en simplifiant les exigences relatives à la déclaration des accidents et en modifiant d'autres programmes de sécurité routière.

STATEMENT BY THE MINISTER
AND RESPONSES

The Chair (Ms Annamarie Castrilli): Welcome, all, to the second day of our hearings on the highway safety act. We begin this afternoon with the minister. Mr Palladini, you have 15 minutes to make your presentation.

Hon Al Palladini (Minister of Transportation): Thank you, Madam Chair. I notice you said earlier "3:33," but I'd just like to say that I was here at 3:30, I thought.

Good afternoon. I'm pleased to address the committee today on the status of road safety in Ontario. About two weeks ago I introduced a bill in the House to target some of the worst offenders on our roads: drinking drivers, suspended drivers, unsafe trucks and drivers who illegally pass school buses.

Many of these measures came from our road safety plan, which was introduced in late 1995 to target unsafe drivers. As our record shows, this government's commitment to road safety is evidenced by having introduced three bills within one year. A snapshot of our progress to date will be delivered momentarily.

Let me begin by addressing the problem of drinking drivers. The good news is that the total number of people killed in drinking and driving crashes has been declining. Back in 1988, 439 people killed on our roads were the result of drinking and driving crashes. By 1995 this had dropped to 317 people. From 1981 to 1990 there was a marked decline in the number of drinking drivers who had been killed, but since 1990 the gains made in the 1980s have levelled off. One person killed by a drinking driver is one person too many.

Drinking drivers are still responsible for one third of the fatalities on our roads. All too often they take innocent victims with them, victims that include passengers, pedestrians and other drivers. These victims can be young children, teens, grandparents, male or female. Their life ended all because they had the misfortune of sharing the road with an impaired driver. It's a shocking fact, but most of the drinking drivers killed in crashes had blood alcohol levels almost double the legal limit. These people could barely walk, let alone drive.

On one hand, researchers are finding that the number of first-time drinking and driving offenders is actually declining. That's thanks to the efforts of community groups, activists and the work of governments over the past 15 years. On the other hand, the percentage of repeat drinking and driving offences has increased to 69% in 1995 from 53% in 1988. I'm sure everyone in this room agrees drinking drivers are a problem.

Here's how we're tackling that problem:

Last December we introduced the administrative driver's licence suspension program. After almost seven months of operation, 11,000 people have lost their driver's licence for 90 days. This program is immediate and, best of all, it works. ADLS takes high-risk drivers off the road immediately, improving everyone's safety.

With this legislation, one of our goals is to get the first-time offenders in such a way that they don't make the same mistake twice. We will be doing this by introducing mandatory education programs. Repeat offenders will have to take the mandatory education or a treatment program, depending on the results of an assessment. If they don't, they won't get their driver's licence back. The programs will be paid for by the offender, not the taxpayer. If the offender can't pay for the program, they will not get their licence back until they do, period. If they can't afford the \$300 to \$500 charges for the program, then they won't be able to pay their insurance premiums, which typically jump to a minimum of \$5,000 yearly.

Let me be clear that we are not forcing people to seek treatment. If they choose not to take the treatment, then we'll elect not to give them back their driver's licence.

Ontario would be the ninth province to introduce a remedial measures program. Other jurisdictions with similar programs have reported a 7% to 9% decrease in alcohol-related crashes and repeat offences. They tell us these programs work. This new legislation was introduced to make sure drivers get their problem under control before getting back on the road.

This brings me to the repeat offender. This bill would bring in longer suspension periods for drinking drivers. First-time offenders would still be suspended for one year, but second-time offenders would now be suspended for three years instead of two. A third-time offender would be suspended for life.

The only way to get the suspension period reduced to 10 years is if the offender meets two conditions. The first is by attending and successfully completing a treatment program. The second is by having ignition interlock installed in their vehicle. The driver has to blow into a type of breathalyser that is attached to the ignition before the vehicle can be started. If the person blows over the limit, the car won't start. Other family members can use the vehicle, but they too will have to provide a breath sample.

Drivers who choose to drive when they have had their licence suspended for a Criminal Code offence had better be prepared to pay the price. If caught, they will be faced with new fines that start at \$5,000 and go to \$50,000. The best that a repeat offender can hope for in the way of a fine is a \$10,000 minimum.

And we're not going to stop here. People who lend or rent their vehicle will have to be more cautious and selective about who is allowed to drive their car. With this legislation, a vehicle that is being driven by a driver suspended for a Criminal Code conviction would be impounded for 45 days. If that same vehicle is driven by a suspended driver a second time, the impoundment period goes to 90 days. If it happens a third time, the vehicle will be impounded for 180 days.

Limited grounds of appeal will be available to the owners of impounded vehicles, grounds that include that the car was stolen; that the driver was not suspended; that the owner exercised due diligence when loaning the car — and by that I mean they made the effort to ensure the driver had a valid driver's licence; and that the impoundment of the vehicle would cause exceptional hardship. This would apply to first-time offenders only. This legislation stresses that owners must be responsible for their vehicles and must lend their vehicles to licensed drivers only. It will be up to the owner to pay for all the towing and storage costs, and they can seek reimbursement for costs from the driver.

This is the toughest drinking-driving package in Canada. I am confident that with these measures there will be a decrease in all drinking-driving offences in Ontario.

Another area of concern is unsafe trucks. One life lost because a trucking company didn't take the time to maintain its vehicles is one life too many. A couple of weeks ago, our enforcement staff took part in a North America-wide road check. During this inspection blitz, enforcement officers randomly inspected trucks and buses for major safety defects such as faulty brakes or cracked

wheel rims. At the end of the three-day blitz, 33% of the trucks inspected were taken off the road. This is a decrease from last year's 39%. Yes, this is an improvement, but I want you to stop and think about this: Every third truck you pass on the road is mechanically unfit. I think you will agree when I state the obvious: More work still needs to be done. I won't be satisfied until the compliance rate is 100%.

Last year we increased maximum truck fines by 10 times to \$20,000, the highest in Canada. We again started enforcing axle weights on dump trucks. We introduced mandatory training and certification for wheel installers and drivers who adjust their own brakes. All that, and still about one third of the trucks inspected are unfit.

Under this new legislation, a commercial vehicle that is found operating with a major safety defect would be immediately impounded for 15 days and fined up to \$20,000. Michigan, Quebec, New York, Ontario — it doesn't matter where this truck is from. This legislation would apply equally to all, regardless of where their home base is.

This 15-day vehicle impoundment would hurt where it hurts most, and that's the pocketbook. Depending on the type of operation, the economic loss could range anywhere from 3% to 8% of the annual revenue generated by that vehicle. Think about that. Wouldn't that money be better spent on regular maintenance programs and checkups? When we implement this program, Ontario will stand alone as the only jurisdiction in North America to impound unsafe commercial vehicles.

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Let me give you a few examples of what I mean by "critical defect." If the air brakes have a missing or broken brake part, that's a critical defect. If four or more of the tires on a vehicle are flat or leaking, that's a critical defect. If the vehicle has two or more wheels with missing wheel fasteners, that's a critical defect. Just one of these is cause enough to impound the vehicle.

Many of you are probably wondering what happens with the load if a vehicle is impounded. One of our inspection officers will determine if in fact the vehicle has a critical defect. This will be verified by a second inspector. A towing company would be called to remove the vehicle. So would the company owner or operator of the truck. They are the ones who would be best held responsible for the safe transfer of the load.

Right now, if a truck breaks down on a highway, the owner would be called to come and get the vehicle and the load it was carrying. We already have the procedures in place to handle this. The owner of the impounded vehicle can appeal on the basis of mistaken identity, that the vehicle had been stolen or that the enforcement officer made an error, which isn't likely to happen since two officers must back up that decision. No one can appeal the defect criteria.

This legislation returns the wheel safety act and would make wheel separation an absolute liability offence that carries a fine ranging from a minimum of \$2,000 to a maximum of \$50,000. This means that if a wheel comes off a truck, that's all an enforcement officer needs to secure a conviction against a commercial vehicle operator, owner and/or truck or bus company.

Some critics have suggested that absolute liability is unfair. They argue that the wheels may be poorly installed or possibly came with defective parts. Well, here's my response to that: Our enforcement officers tell me that regular maintenance and pre-trip inspection would in most cases tell someone if a wheel is at risk of coming off. It's called early detection. If a wheel comes off and it's because of a manufacturer's defect, the carrier does have a recourse, and that's to take it up with the manufacturer. The public has little patience for finger-pointing among owners, operators and manufacturers. The buck has to stop somewhere. We think it has to stop at the people who have an economic interest in putting that truck on the road. If they are safe operators, they have nothing to fear in this legislation.

Many of you are aware that the number of reported wheel separations has increased dramatically in the past six months. In 1996 there were 40 wheel separations reported. Already, 152 wheel separations have been reported calendar year to date 1997, and we're not even halfway through the year. Admittedly, I agree that awareness has increased and more people are reporting wheel separation. None the less, 152 wheels have come off this year alone, and let's not forget that four people have been killed by flying truck wheels.

Last, but certainly not least, school buses carry about 800,000 children a day to and from schools. In the past five years the number of school bus collisions has remained between 1,000 and 1,400 per year. About 1% of children injured by motor vehicles are injured in school bus collisions. One child lost because a driver didn't stop for a school bus is one life too many.

In 1995, 776 drivers were convicted of failing to stop for a school bus. That's why we consider passing a stopped school bus one of the most serious offences under the Highway Traffic Act. If convicted, a driver gets six demerit points. The only offence that carries more demerit points is failing to remain at the scene of an accident. In some cases, the offender can be jailed for up to six months. With this proposed legislation, fines for a first-time offence would double, from a minimum \$400 to a \$2,000 maximum. Second-time offenders would also face double fines ranging from \$1,000 to a maximum of \$4,000.

The province stands firmly behind its current position that the driver of the vehicle, not the owner of the vehicle, must be held accountable for their actions behind the wheel. Our laws about school bus safety are very clear. When a school bus is stopped and its lights are flashing and its stop arms are out, traffic must stop. Drivers who don't obey this law face harsh penalties.

I believe one of the most effective ways to reach drivers is through public awareness programs. Ministry staff continually work with community-based programs, parents, schools, school bus operators and children to make them aware of this rule.

In closing, let me thank you for your time, for your continuing support and for your interest in road safety. Each of us has a role delivering the road safety message. With your input and support we can and will pass this much-needed legislation.

The Chair: Thank you, Minister. For the official opposition, Mr Dwight Duncan.

Mr Dwight Duncan (Windsor-Walkerville): Thank you, Minister, for attending today. We're glad to have you here finally. The first bill on truck safety was on February 24. We were told repeatedly that you were going to bring it in and then you withdrew the bill and brought this back. I'd like to take an opportunity to address the three components of the bill in as succinct a fashion as I can.

First of all, on the drunk driving component we fully support the measures you've taken. As a former administrator of Canada's largest alcohol and drug recovery program, I'd like to share with you that the repeat offenders are really the trouble, they're really the tough spot. You've pointed that out in your presentation. Drivers who get back behind the wheel who have suspended licences are a real problem too.

You'll find if you speak to court officers, if you speak to lawyers, if you speak to people in the drug and alcohol rehabilitation business, that they are the toughest nuts to crack, and as you pointed out correctly in your presentation, they really do pose a great problem to safe roads. In fact, I had people through our program, and one fellow was responsible for the death of a young child and did 90 days in jail as a result of it. This goes back some years. We welcome these measures but remind you, as you've pointed out, that the most difficult cases, the most troublesome ones are those licensed drivers with suspended licences.

On the truck safety legislation, we have spoken and debated at some length the question of absolute liability. You and I have talked about it in the House and I appreciate the dilemma you find yourself in with respect to it. We had asked in the House if you would show us your legal opinions in confidence. You haven't done that yet. I think we're all interested in making sure we have a law that stands up to a court challenge. We've all seen different legal opinions and ultimately it will have to be tested.

Yesterday we were shown these brake wedges which are concealed. You can't see them on a visual inspection. They are behind the wheel. A visual inspection won't work. This particular one has a very small crack in it. This one has a very large crack in it. This came off a wheel that had eight of these things and five of them were damaged in this fashion. The legal opinions I've seen call into question whether or not you could make the absolute liability provisions stick on that type of an offence. We think it's important this issue be thoroughly understood and dealt with.

In terms of Target '97, you've dealt really with one recommendation that was contained in Target '97 and we fully support that one recommendation, but we intend to continue to pursue the issue of the regulatory changes that we both know and everybody who's watched this issue knows have to happen.

I will be putting an amendment to the bill that calls upon the government to appoint a public committee that can review implementation of the Target '97 recommendations. I hope the government will support that. There's been some concern that there's not enough dialogue about

the implementation, that the difficulties you as minister have in implementing these regulations are not well enough understood.

I personally believe that type of amendment to your bill will assist you and I hope the government will accept that amendment so we can review from time to time in the spirit of cooperation, the spirit we have here today — I believe, and I may be wrong, this is the first government bill that the opposition has actually offered its support on. I would hope, in the spirit of cooperation, that you would accept that amendment as being friendly and as being something that's conducive to safer roads.

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The other issue in truck safety we're going to be talking about with you — we've asked your parliamentary assistant to provide us with the correspondence that's gone on between you and the Minister of Education — is with respect to the class A driver's licence and what someone has to do to get a driver's licence.

I frankly was surprised to find out that to get a class A driver's licence, you could show up at the testing centre with a Dodge Neon towing a trailer. My understanding is a number of organizations have brought this issue to your attention, as well as the Minister of Education's attention, and that this question hasn't been fully addressed.

We will be bringing amendments to this bill that deal with the PVSA, the Private Vocational Schools Act, which is a statute that admittedly is the purview of the Minister of Education, but we think there's a need to clarify who has carriage of this, where appropriately licensing rests and what standards should be in place for one to get a class A driver's licence.

I want to take the remainder of my time to very briefly address the school bus safety bill. We will support this particular bill, although it doesn't go as far as Pat Hoy's private member's bill. Pat's bill deals with the liability question as well. We're glad you're finally bringing this in. Mr Hoy's bill was adopted last November, as I recall, and aside from the liability question, which we intend to bring amendments forward on, we can support that aspect of the bill.

We will be bringing forward a series of amendments to address those issues, and in the spirit of cooperation that we've brought to the table on this particular issue, we look forward to the government sharing that same cooperation and perhaps accepting one or two of those amendments.

The Chair: For the third party, Mr Bisson.

Mr Gilles Bisson (Cochrane South): Thank you, Minister, for appearing before our committee and giving some details on this very important bill, Bill 138.

I want to say as an opposition member to those people who are watching, especially to some of the members on the government side, that often the opposition is accused of only opposing what government has proposed. I think Bill 138 shows that in fact members of this Legislature on all sides take legislation quite seriously, and in this particular case it's one of the rare times when we actually see all the parties, both on the opposition side of the House and the government side of the House, saying this is good legislation.

This is legislation that needs all-party support and legislation that needs to be expedited, to do what? To provide for safer highways for the people of Ontario. That's really what the bottom line is here. If we saw more days like this in our Legislature, I would probably argue that people would have more confidence in the Legislature and politicians and government generally. Unfortunately, that is not always the case because there are some very real issues that come up in the Legislature where we have very big differences of opinion; hopefully one day we'll move to a different political system that is able to address that.

I want to speak specifically to Bill 138. We in the New Democratic Party support much of what's in this bill, if not 99% of it. We think the moves on licence suspension and remedial measures when it comes to convicted drunk drivers is not only a step in the right direction, it's long overdue. It's something we had certainly talked about when we were in government. Given the number of legislative days, we didn't get a chance to move on it. You did. We congratulate you. We think that's a step in the right direction.

The roadside impoundment in so far as trucks that have defects are concerned we think is a step in the right direction. However, it's not the only thing we need to do around truck safety. It is but one component, but definitely is a step in the right direction.

The increased fine for suspended drivers who drive: We can certainly understand what that's all about. People need to take driving seriously. Driving is not a right, it's a privilege. If we don't take that type of attitude from the perspective of the Ministry of Transportation and from the public, I think we'll see further abuse. That's one message we've really got to send to people, that when it comes to the privileges of driving, they're exactly that: They're a privilege that we give and they're not a right and people need to treat them that way.

The school bus safety initiative, as was mentioned by the Liberal opposition critic, we think is a step in the right direction. It doesn't go as far as Pat Hoy's bill, but I think it's a step in the right direction and better this than nothing at all. Actually it's quite a big step, so we congratulate you for bringing that forward.

On the wheel separation offence, we generally support Bill 125. The only thing is, and I want to come back to a point that was made yesterday, there is the whole issue of those trucking operators who do operate due diligence.

For example, we heard yesterday, as was pointed out earlier, that somebody goes out to use the proper parts, they use the proper mechanical procedures to make the truck safe, but for whatever reason unknown to the owner-operator or the company, you have defective parts. That raises an interesting question.

We understand what the ministry is trying to do here. We understand you're trying to be tough when it comes to flying truck wheels, but we can't be throwing the baby out with the bathwater here. We need to try to see that we don't penalize people who are actually trying to do their jobs, doing everything in their power to make their truck safe. We need to find some way to recognize that.

I understand it's a tough call on the part of the minister, and I certainly understand the situation you're in.

You want to be seen as doing something and we congratulate you for that. But I think in the amendments we need to take a look at the issue of how we take account of due diligence.

The only other thing I would say in closing is that the ministry undertook, I think without any doubt, a very useful and very productive process of consultation with the industry called Target '97. It wasn't as broad based and it didn't have the kind of public support or public participation that I would have liked. None the less it was good work and Target '97 brought forward, I think, some of the more progressive and some of the best approaches we can take when it comes to making our highways safer for the motoring public when it comes to trucks. It really looks at it from a comprehensive point of view.

The only thing I would ask the minister, and I really want to stress this, is that I see you coming forward with Bill 138. You and I have been around this Legislature long enough to know that as Minister of Transportation you're only going to get so many kicks at the can in being able to put legislation before the House. I'm afraid that once Bill 138 is passed, the House leader probably won't give you much more air time when it comes to the House for truck safety legislation unless something catastrophic were to happen on our highways. I would have much rather seen you come back with what you had asked for and told us you were going to do, which was a comprehensive truck safety package when it comes to legislation.

I understand that a lot of what happens in Target '97 can be dealt with by way of regulation. I only say to the minister this: Move on the regulation, but it has to be in a publicly accountable way. Part of the fear I have is that I understand how governments work from both sides. I've been in government and I've been out of government. When you leave it to just the hands of the cabinet, stakeholders in the industry and the public and we the legislators often don't have prior knowledge of what the cabinet's going to decide to do or not to do when it comes to the Target '97 recommendations.

I urge you to undertake some sort of process that involves the stakeholders in the transportation industry to make sure that when you move on the regulatory parts of Target '97, it's done in a way that's accountable to the industry and to the public and to this Legislature.

The other point I would make is that there's probably a third of what's within Target '97 that needs legislation. I'm a little bit disappointed that you didn't get the time and you didn't get the support from your House leader to be able to bring back a larger package dealing with some of those other issues that need to be addressed by way of legislation to make our highways safer.

I don't succumb to the school that bigger fines will fix the problem. I think bigger fines are part of it, but really what we need to do is change the attitudes in the trucking industry, get people thinking about transportation, about trucks not as big cars but as transportation vehicles, and everybody within the industry taking the responsibility. That's shippers, that's carriers, that's the government and that's everybody involved in the trucking industry.

The Chair: Thank you very much, Minister, on behalf of the committee for appearing before us, together with

members of your staff. Thank you as well to the opposition critics for their intervention.

Mr Bisson: I have a question of the parliamentary assistant. Can the parliamentary assistant provide the committee, and I'd like to get it fairly quickly because I need them for the work I'm doing, with which parts of the Target '97 recommendations can be dealt with by way of regulation and which ones need legislation to move forward on? There are 79 recommendations in Target '97. I want to know specifically which of those 79 need legislation in order to move forward on it.

Mr John Hastings (Etobicoke-Rexdale): I'll be able to produce that for you by the end of the week.

Mr Bisson: The quicker, the better.

I have one other question. It is the result of a question from my constituency, actually just last night, over this issue, and that's the question of motor vehicles passing buses with flashing lights. The question I was asked was, does this apply to a snow machine? Apparently there have been some cases in northern Ontario where snow machines in some municipalities are allowed to travel on municipal roads and have gone by school buses with flashing lights. I expect that the answer is yes, that the laws of the road apply to snow machines, but can you please confirm that as well?

The Chair: The questions are noted.

Mr Hastings: Well noted. Thank you.

The Chair: Could we move to the Canadians for Responsible and Safe Highways, Bob Evans.

Hon Mr Palladini: Madam Chair, I'd just like to make some very brief closing remarks. I want to thank my colleague Mrs Marland for her dedication towards getting us to this point in regard to this bill. Her efforts have certainly helped us get this far. Again I want to thank the opposition, and rightfully so, for backing this very important bill. Thank you very much.

Mr Bisson: He didn't say that tongue in cheek.

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CANADIANS FOR RESPONSIBLE AND SAFE HIGHWAYS

The Chair: Bob Evans. Welcome. We're pleased to have you with us today. You have 20 minutes for your presentation. If there is any time remaining, the committee will ask you some questions.

Mr Bob Evans: On behalf of Canadians for Responsible and Safe Highways, I would like to thank you for the opportunity to appear before this committee.

My association represents the safety concerns of Canadians who share roads with large trucks. Large trucks and automobiles have very different characteristics. They do not easily co-exist in close proximity. An Angus Reid poll conducted this past September determined that 83% of Ontario residents believe that the growing number of tractor-trailers on our roads and highways are making those roads and highways more dangerous. Unfortunately, safety statistics suggest that there is reason for their concern.

Every year something like 13,000 Canadians have been killed or injured in accidents involving large trucks. Large trucks were involved in accidents resulting in

almost 20% of all road fatalities. Let me repeat that statistic, because I think it's important: Almost one fatality in every five recorded on Canada's roads stems from an accident involving a large truck.

Clearly, therefore, my association welcomes the stronger trucking safety measures contained in Bill 138. We welcome the impounding of critically defective commercial vehicles. We welcome the absolute liability offence for wheel separations. We welcome the stronger actions with respect to suspended drivers, impaired drivers and those who pass school buses. Of course, the devil is in the details. We at CRASH will be particularly interested in just what is defined by regulation as a "critical defect," and I guess I should add that I appreciated the indications that were just provided by the minister.

As others have remarked, the new legislation does not respond to many of the trucking safety proposals which have been placed before the Ontario government. Therefore, CRASH eagerly awaits the further safety measures the minister has promised for the fall.

CRASH endorses the latest changes to legislation relating to trucking safety. CRASH also supports many of the recommendations of Target '97. However, CRASH does have significant reservations with certain of the Target '97 recommendations which could be acted on by the Ontario government in the fall.

Thus, while I want to express sincere appreciation for the attention Ontario is directing to trucking safety issues, the best use of the short time I have today would be to make you aware of certain actions or positions not apparently on the table that my association believes would better enhance trucking safety on Ontario's roads. There are five of those specifically. You've had the Target '97 recommendations. Here are the CRASH '97 additional recommendations, not '97 edition five.

First, we recommend that the Ontario Legislature work with the federal government to reduce the limit on consecutive driving hours to the American maximum of 10 hours while opposing any increase to the current maximum of 60 hours of driving in a seven-day period.

The Target '97 proposal for driving hours appears to us to be an effort to get more work out of the human machine, about making it legal for a person to drive for up to 80 hours per week versus the present ceiling of 60 hours. That's too much.

University of Waterloo researchers have found that the risk of a fatigue-related big truck collision almost doubles after nine and a half hours of driving. Yet in this country we allow truck drivers to drive for 13 consecutive hours versus the 10-hour limit set by the US Congress. Thirteen hours is too much. Playing with all sorts of gimmicks to get more work out of current drivers is simply playing with the lives of the rest of us. Driver fatigue is serious business.

Incidentally, in the September Angus Reid survey of trucking safety attitudes, 86% of Ontario residents favoured reducing the consecutive hours driving limit to a 10-hour ceiling the Americans impose.

Second recommendation: We suggest that the Ontario Legislature make it very clear that larger multitrailer trucks will not be welcome on Ontario roads. There is a

reference in the Target '97 report to the effect that some carriers should be allowed to operate what are called LCVs; LCV stands for longer combination vehicle. These are multitrailer trucks that can be as long as a 10-storey building is tall. They can be 50% longer than anything currently allowed on Ontario's roads. These extra-long vehicles take longer to pass, they are slower in climbing grades, they are more difficult to stop and they are more prone to jackknifing or tipping over. A picture is a thousand words: This is one version of what we're talking about. That's a train without tracks.

In the September Angus Reid poll I referred to previously on trucking safety attitudes, virtually all the Ontario residents surveyed expressed opposition to facing larger multitrailer trucks; 90% opposed trucks with two 48-foot trailers, and 96% — and we had an official from Angus Reid say, "When you get 96% you've got unanimity" — of Ontario residents said they were opposed to sharing the roads with trucks with three trailers.

We know from experience elsewhere that the trucking industry's response to public fears over ever-larger trucks is to propose what they call "carefully controlled" introduction. We have pilot tests, we have limited trials, also carefully controlled. Ergo we have the Target '97 suggestion of allowing only "exemplary" carriers to operate them in Ontario. From the information we've seen, we don't even know what an "exemplary" carrier is. However, we also know that once you get a foot in the door once you get these trucks operating under controlled conditions, there will be inevitable pressures to add more roads, to relax the restraints etc. You will get creep.

Just to illustrate that point, Alberta and Saskatchewan, two provinces which have allowed so-called "controlled" operations of LCVs, and these were initially put in only on their very best roads, now are allowing LCV operations on some two-lane roads.

Third recommendation: We recommend that the Ontario Legislature commission a task force to examine the safety and economic benefits of reducing the maximum weights of trucks allowed on Ontario roads. This should really be with consideration of conforming to the US interstate levels.

In Canada, we allow trucks that are 60% heavier than those permitted on the US interstate system. As I noted previously, we allow drivers to drive for 30% more consecutive hours than is legal south of the border.

In Canada, we also have a per-capita fatality rate for accidents involving large trucks which is about 10% higher than that of the United States. If our truck accident fatality rate had been at the American level over the last five years, over 250 of the reported Canadian victims would still be alive today.

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As just mentioned, there are two major differences between Canadian and American trucking safety regimes that are very much in the control of Canadian legislators: In this country we allow heavier trucks and in this country we let truck drivers drive more consecutive hours. Let us not get lost in the "Oh, it must be the blackflies" kind of discussion. I have to suggest that before any Legislature allows truck drivers to work more hours or endorses still bigger trucks, it should work very

hard to find out whether those 250 Canadians may have perished as a result of the more lax trucking safety environment in this country compared to the United States.

Fourth, the Ontario Legislature should make a determined effort to bring all the province's trucking safety practices into harmony with the National Safety Code and national weights and dimensions. The purpose of national standards is to take away the possibility of one province accepting lower safety norms in order to gain competitive economic advantage. Ontario does not now conform totally with the national parameters. CRASH had expected that a correction of this would be a logical Target 97 recommendation; we did not find it.

Finally, the Ontario Legislature should create an environment for setting and managing trucking safety rules that enables full participation of the Ontario public, participation equivalent to that now enjoyed by the trucking industry. The trucking industry has gone to obvious lengths to establish strong relations with the Ontario government and with organizations which may be able to influence the government.

You know what? There's nothing wrong with that, absolutely nothing wrong with that. But what is wrong, I suggest, is that the rest of us who share those roads with big trucks have not had anything approaching similar access to our decision-makers. The public has not been invited in the same way to the table. Trucking safety fundamentally is not about trucks. Trucking safety is about people — about their lives, their health and their security.

Action by this Legislature on the five suggestions I've advanced would save lives. The trucking industry today is confronted with enormous competitive pressures. We all know the buzzwords: deregulation, NAFTA, globalization, just in time. Those are modern influences that, properly channelled, can reasonably be expected to improve our standard of life. But if they get out of balance, we can arrive at a situation where the drive for competitive advantage and profit is pursued at an unacceptable cost in human lives and wellbeing.

My organization, Canadians for Responsible and Safe Highways, is not anti-truck; it is pro-safety. Canadians hold very profound and very clearly demonstrated concerns about coexisting with large trucks. CRASH is about saving lives. To that end, CRASH intends to be a channel to give Canadians that voice in trucking safety they need and want.

The public is following what is happening here on the Ontario trucking safety front with keen interest. The bill just tabled and other actions that the government has taken represent a good start. But as we all know, it is in its promised fall response to the Target '97 recommendations that the government will truly reveal where it stands on this issue.

The Chair: We have just over two minutes per caucus. We'll begin with the government side.

Mr Frank Klees (York-Mackenzie): Thank you for your presentation. By the way, I think your comment that truck safety is about people and not trucks is certainly a very important one and should be kept foremost in our mind as we deliberate on this.

Have you or your organization done any research relative to the implication of how the trucks are actually being driven? What I mean by that is that all of us share the road, as you say, with trucks. It's not their presence; it's how they're present and how they're being driven. I know that one of the most frustrating things for me is to be driving in the passing lane, trying to get by one truck and there's another truck in front of me. I've gone kilometres on end without being able to pass either of them. I just wonder if there are some things that you can recommend for us, that we should be looking at to address that whole issue of where trucks should be on a road. Should they be allowed to travel in that passing lane at all? Any comment?

Mr Evans: We had a fellow who'd driven trucks for something like 25 or 30 years at a conference we sponsored recently and he talked about truck drivers and the pressure on truck drivers. I think something we need to be very aware of is the pressure these people have. This is a terrible job. There are probably going to be something in the order of 60 or 70 truck drivers killed in this country this year, driving. A lot of them don't get paid for loading and unloading. I made a reference to just in time: They get sent out in all kinds of weather conditions. They confront all kinds of individuals at all kinds of shipping docks. They just get sent out. It's an extremely difficult environment these people are put into. My sense is they are not properly equipped for it and there's a real need to have a better understanding and look at the kinds of pressures they are put under, starting right with the shippers.

Mr Duncan: Ontario has I guess the highest length and weight configurations of most jurisdictions. Is that correct?

Mr Evans: Highest? No. There are four provinces that allow LCVs on a limited basis now. LCVs by definition are vehicles that are over about 25 metres in length.

Mr Duncan: How do Ontario's regulations compare with the state of Michigan and the state of New York?

Mr Evans: You've got to understand that in the United States you've got national, congressional regulations on the interstates and then you have state regulations. Michigan, for example, allows heavy trucks on certain roads within the state of Michigan.

Mr Duncan: The national standards that you referenced, you had made a reference to the fact that Ontario does not conform to all national parameters. Specifically which ones?

Mr Evans: Specifically you allow seven-axle semi-trailers. You allow six-axle semi-trailers at 54 metric tonnes and the federal-provincial agreement on the six-axle is 46 metric tonnes. I suspect there are others, but those are specific ones.

Mr Bisson: Thank you very much, Mr Evans, for having presented. I guess three questions come to mind. One of them is around the Target '97 stuff. I know your group has certainly talked to all members of this Legislature about how in Target '97 there are a number of good recommendations but there was really a lack of public involvement. There was a lot of industry involvement, which is right because they're the ones involved, and there was government involvement, which again is right

because they're the ones regulating, but there was a lack of public involvement.

Now we're led to understand that in the coming months or years the government's going to implement recommendations in Target '97 by way of regulation; probably a little bit more than half of it will be done by regulation. Do you have confidence that can be done by the cabinet without any kind of public scrutiny?

Mr Evans: We would like to see the public involved and involved heavily.

Mr Bisson: Do you have confidence that will happen?

Mr Evans: We have some scepticism, and the scepticism is borne out by our experience with Target '97. We asked to be part of Target '97, at least the steering committee, and we were refused.

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Mr Bisson: One of the things I know you have raised, and I've heard it raised not only by your group but others, is the fear that LCVs, longer combination vehicles, triple-trailer trucks, be allowed in Ontario. Where do you get the indication that's going happen? Because I think a lot of people don't know where that comes from.

Mr Evans: The Ontario Trucking Association has made it very clear they want it. They have made a number of presentations arguing in favour.

Mr Bisson: Where specifically do you think the government may move on that?

Mr Evans: Under Target '97 — and of course we have a problem with Target '97 because all our association knows about Target '97 is what we've been allowed to know. Quite frankly, there are a lot of holes. On one of the last pages of Target '97 there is a reference to I guess you could say rewards for, as I said earlier, undefined "exemplary" carriers. One of those rewards could be permits for LCVs. There it was in the Target '97 documentation.

The Chair: Thank you very much, Mr Evans, for coming this afternoon and sharing the views of your organization.

Mrs Lyn McLeod (Fort William): I would like to ask the ministry and/or the researcher, whichever is more appropriate, to determine for us exactly in which areas Ontario does not conform with national parameters and what steps are going to be taken to ensure that in any regulations brought forward we are brought into conformity with the national parameters.

The Chair: Very well.

Mr Bisson: I have a further question of the parliamentary assistant. We know by what was presented in the previous presentation that one of the recommendations in Target '97 was that if you're a good carrier you get the possibility of getting LCVs licensed in Ontario. The question to the parliamentary assistant is, is the Ministry of Transportation considering allowing LCVs in the province?

Mr Hastings: I'll take it under advisement and we'll get back to you on that, in terms of the other questions you posed.

The Chair: Before we start, I've asked the researcher to summarize the questions we had last day so we can keep a record of the questions and you can make sure the questions you asked are actually in the form you posed

them. I would ask committee members to review it and next day we will have a complete list of the questions that will be asked today.

CC CANADA

The Chair: Could I ask Mr Breaugh to come forward, CC Canada. Welcome to the Legislature again. You are certainly not a stranger to this place.

Mr Michael Breaugh: I've been in this room once or twice in my life.

The Chair: Yes, you have indeed. We're looking forward to your presentation. You have 20 minutes to use as you wish. I'm sure that if you leave any time, the committee will just jump at the chance to ask you questions.

Mr Breaugh: I'm sure they will. I'd like to start by saying that I am not here to represent any large group and I don't want to purport to represent the industry as a whole or even the family of companies I work for now. You should know that I work for a logistics company that does business in Ontario. We do some truckload business and some less-than-truckload business. I guess we would simply fit the pattern of the modern transportation group, and that is, if you aren't able to service an industry as a whole, all of the specialized needs they might have, you're probably not going to be in business very long.

What I thought might be useful for you is that I did sit in this room a long time ago on a select committee on highway safety. We went through a process which I'm sure was very similar to what you're doing on this bill and what others will do on highway safety. In that regard I can probably offer some useful advice. I want to leave most of the time for you to talk among ourselves and to ask questions.

When we went through the exercise the first time, we did successfully establish the framework that is now used in Ontario, but that was a long time ago and that now needs to be renewed. Ontario does some things that no other jurisdiction in the world even attempts to do, and that we don't do it perfectly shouldn't set aside the fact that we have made that effort.

If I could offer a couple of things as guidelines for you, it is now apparent to me, as somebody who works inside this industry, that whatever happens has to bring in a whole lot of people who at first blush might not seem to have a direct interest in this: the public at large, and there are now a number of interest groups out there that have to somehow feel part of this process. How you fit them in, how they are worked in, I really don't have the specifics of that, but we traditionally have used public hearings and forums like this to do that kind of thing.

You have to sort and separate a bit too. You will find a bewildering number of statistics and studies done all over the world. We found, for example, that many of the studies that had to do with enforcement came out of nations that had perhaps one or two major highways. In England or in Sweden, if you want to talk about putting a unit on the road that can stop virtually every truck that's out there, they can do that, and so enforcement for them has a different connotation than it does in North America with this huge road system we've got.

I guess one of the little guidelines that I would offer for you is that enforcement is part of the package but it really can't be your solution. If it is, you have to remember this: Somehow you have to get the enforcement officers out there. We have been unable to do that over the last 20 years. I suspect that in difficult economic times we're going to be unable to do that in the future. So enforcement can't be the cornerstone of it.

I see in the industry now the beginnings of an awareness among people who up until now didn't really care whether you were a good carrier or a bad carrier, had a good safety record or a bad one. Now I find clients of ours are asking to see our CVOR. They want to talk about safety records. They want to talk about units that come on to their property that they think are unsafe and they want us to respond. I think that's a good thing.

We haven't done very much, in my view, in terms of training of drivers, of all kinds of things, because the technology is evolving quickly. In the company where I work, for example, we do virtually anything a client wants. If a client comes to us and says, "We want to track by satellite your truck carrying parts into our auto plant. We want to know exactly where it is all the time and what its estimated time of arrival is. If it can't use this road, can you provide him with a map to use another road? How do you do that?" whatever the client wants, we will provide that kind of service. We don't do that for everybody because it gets kind of expensive, but more and more, that's becoming the pattern. We do have to equip almost everything that I am aware of with a cell phone because they want to have communication with the drivers. So there are lots of things that can be done.

I want to conclude what I have to say with a couple of what I guess would be considered negative points. This whole exploration of technology has just begun for the trucking industry and I think that needs to be explored much further. There is technology available in our trucks, for example, little computers that record every drop of fuel that is used, what your oil consumption is, that limits the speed of the unit so the driver can't speed with the truck, that tells us how many miles those wheels have turned. There's the beginning of the information age flowing into the trucking industry.

There are probably areas in there that can be explored and should be explored. There are certainly areas around the training of drivers and mechanics and equipment that's used to service all of this that can be done. The conclusion I come to is simply this: We're now growing into a partnership phase and part of that is the public's perception, because as an industry we share a public highway and that makes us part of that process.

I'm not making an argument here that because the public when they drive on Highway 401 are afraid of the big truck beside them — so am I. But I am reminded that driving that big truck beside me is somebody who has probably got a family, who is trying to earn a living the same as everybody else is, who is a human being. Do we put reasonable amounts of training into their preparation? Do we give them reasonable amounts of training and equipment to repair and service the vehicles they use? Do we have a reasonable set of expectations?

I would argue that at the end of this process what I would like to see is a partnership. The public should be part of that and the industry should be part of that and those clients that we serve should be part of that and certainly you as legislators will be part of that. Then I think we will begin to push this envelope a little bit further, because I think it does need to be pushed in that direction. The caution that I would put on you today is that, as we did 20 years ago, if you think that passing a tough law ever solves a problem, remember this: Virtually no one who rides our roads will ever read that law, virtually no one.

If you want it to be strictly enforced, you had better be prepared to put the enforcement officers out there, and that costs a lot of money. Most of the people out there are trying their very best to obey the laws as they know them. A good law is one that is seen by the public at large as being a reasonable thing to do, that there is some common sense involved in that whole process, and so they will conform with that.

If you ask me for statistics you won't get them off me; I don't have them. If you ask me about the process, though, I think I can be of some assistance to you and I'd like to spend the rest of my time doing just that.

The Chair: Thank you very much, Mr Breagha. We have about two and a half minutes per caucus. We'll begin with the official opposition.

1630

Mrs McLeod: I'm sure my colleague will have some questions. I have just a couple that were raised as you were talking. One was that a process of public awareness is slowly building in terms of the public's and the shippers' demand for safety in their carriers. This is an issue that was raised yesterday in committee. Is there really enough information available so that people who are shipping goods have a sense of what the safety record is of the carriers? Are you able to facilitate their getting that kind of information when they are looking for it?

Mr Breagha: I don't think it's perfected yet. I think the beginnings of it are there. I am happy, personally, that there's some awareness on their part that this is not quite as easy as it looks. If they say we want to see your CVOR, we're happy to show them that. If they want to see what we do in our safety lanes, we're happy to show them that. If they want to see the qualifications of our mechanics, we're happy to show them. I'm not really sure how far that envelope will go. Is it the responsibility of the client to investigate the service provider? Good question. But in my own life, if I call a plumber into my house I want to know, does the plumber have some kind of qualification? Is there a recommendation? Is there a reference? So I think that yes, within reason it is there.

We had, for example, some meetings with General Motors personnel about CVORs, and I was pleased that the ministry people who were there said: "This has some limits to it. Try to understand what the limits of these kinds of records are." They did seem to accept that but they also got to the bottom line in a hurry.

That's the record we got, so that's where we start.

Mr Bisson: I couldn't agree more with your comment, which is working our way through trying to make our highways safer. Enforcement is not the only option we've

got. In fact, it's the last thing we do if everything else fails, and I couldn't agree with you more. I would like to see this Legislature, this committee and this minister do a lot more when it comes to dealing with all those other issues which come from licensing drivers properly, training them properly and dealing with carrier responsibility, everybody taking their part in the responsibility.

If the government was going to move on a couple of other things, because there's only so much time the government has before the Legislature — as you know, competing for time to get bills before the House is always difficult — what do you think are some of the key things the government should move on, not the enforcement stuff but the more progressive stuff?

Mr Breaugh: As we would normally anticipate, the training of people who work inside the industry is the critical starting point. That I think needs some work, and I'm aware that there are a lot of people in various ministries who have been trying to do that. I think that would be my first place.

The second place would be to try to heighten the awareness in the community at large, other than inside the industry, about all these factors, because really none of these laws ever work until the public really accepts them and to some degree or other understands them. If they are still frightened when they drive on the road and an 18-wheeler comes up beside them, it doesn't really matter what laws you've passed or what regulations you've put in place, they're still going to be frightened. So there is an education process that has to be done.

Mr Bisson: Just very quickly — I've only got a couple of seconds — you talked about the industry only scratching the surface when it comes to the utilization of technology but you didn't expand on that. What could they be doing?

Mr Breaugh: The equipment we use — for example, the basic trucks — has not changed substantively in some ways in quite some time. In other ways they've become quite sophisticated in terms of motors, I guess in terms of how you get mileage out of gasoline or diesel fuel. In some of those aspects they have changed, but there are a lot of monitoring devices that could be put on trucks that electronically would give you information you're now trying to visually see.

For example, when you talk to drivers and you talk to OPP officers you get a very different version of what a circle check is. An OPP officer says, "Well, you walk around the truck and you inspect this and you look at that." The driver says, "It's 5 o'clock in the morning, it's snowing and you want me to start my day by crawling underneath a truck and looking up at slush, because I can't see the parts I'm supposed to look at." So even mechanics in the drive-through lanes that we operate say: "You know, the biggest hazard we face is when the trucks come off the road and we crawl underneath them and the ice comes down. It's just gravity."

Some of the perspectives are a little bit different, and somehow you have to kind of get those things together a little bit more.

I want to take the Fifth Amendment now.

Mrs Margaret Marland (Mississauga South): I was going to say it is great to see you. I tell all the members

of the committee, other than those who knew you, that you always were a very bright, articulate member working hard for Oshawa and just didn't have the vision to be in the right party at the time.

Mr Breaugh: Vision was always my problem.

Mrs Marland: I personally appreciate that you're here today and I hear you speaking very objectively. Yesterday I made an analogy between a pilot's licence and flying and the responsibility and requirements for that kind of equipment. When you're talking about a partnership here — and I certainly agree with you that just passing laws on any subject is not necessarily the solution, because it is the enforcement that costs the money and makes a law effective, otherwise it's ineffective.

I wanted to ask you: In your experience, and I didn't realize that was the industry you're related with now, could we develop some standards in terms that are also comparable with the operation of airlines? We're still talking about risks to the public in both cases. If we had a standard for the number of miles on engines, the number of miles on tires or the number of miles on brakes, which are similar things to the airline industry, would establishing those kinds of standards that were in a log book — I know they have log books now but I don't know what's in them and maybe that's something we should know. Is there any possibility of that kind of standard being explored and being part of a solution?

Mr Breaugh: Yes, I sometimes use that analogy myself. The airline industry is perhaps the model for the world in terms of trying to track how many hours are on an engine and who works on what for how long and perhaps has some of that world's highest standards in terms of safety, and then people were on to me, "Yes, but planes crash too." Yes, they do. Then someone else will remind me, "Well, I have a friend who works in" a process called expediting, which means that when parts don't arrive at the auto plant and you can't get them there by truck, you ship them by plane. People who work in the expediting division of our corporation kind of lick their lips, because it just quadruples the price of getting an auto part into an auto assembly plant when you ship by air. It gets there faster and that's part of the cost increase, but it's also the increase of all those regulations and the monitoring process.

Somewhere between the two, there's got to be a middle ground where you can find some commonsense applications that will make safety an integral part of everybody doing business here.

The other caution I would put on is what I see happening right before my eyes. I am saddened by it, but it's almost inevitable. This industry is going through a real lurching, gut-wrenching process. The day of the little entrepreneur with two or three trucks providing transportation to local industry is quickly going over the hill, and we're well on the road to maybe 10 or 15 or even 20 large North American conglomerates that can meet these kinds of standards and compete in a North American marketplace. That's almost inevitable, to the point where I'm not sure I accept it any more when someone says to me, "Well, I can't afford to fix my truck." Then basically I think you can't afford to be in that business any more.

The Chair: Thank you very much, Mr Breaugh, for being here today and for putting your views forward to us.

Mr Breaugh: Thank you. It's been fun, and the best part is that I can go home tonight.

The Chair: We'll think of you at midnight.

DAVID HORAN

The Chair: Could Mr Dave Horan come forward. Welcome, Mr Horan. We're pleased to have you here with us.

Mr David Horan: I'd like to start by telling you that I'm not here to bash anyone or any company. The company I am now working for, from what I understand, is very health and safety oriented and is a very good company to work for. They have a good reputation, as well as the previous company I worked for, which I'm not trying to hurt in any way, shape or form.

I only want to voice my concerns about truck safety and Bill 138 and if there's any way I can help make improvements. I've been driving a truck for over 15 years. I've been around trucks all my life. In 15 years I've lost a set of wheels and almost lost another set. In both cases it was within 24 hours of the wheels being replaced. I was very fortunate in both cases in that no one was hurt. In the second incident, upon checking out the noise to the rear of the truck, I noticed the wheels had come loose. When checking the nuts by hand, there was no way I could turn them even in the condition they were in.

1640

My other concern has to do with truck safety and my experiences. On November 13, 1996, I was in a position to drive a truck that I felt was unsafe. When I called dispatch to let them know the condition of the truck, I was asked if I was on my way to get the rest of the run done. I replied that I'd just talked to the mechanic and that there was something wrong with the truck, a broken cab mount or something.

The operations manager replied: "Everybody else has been driving it and there's nothing wrong with the truck. Another driver drove the truck down there and dropped it off so we could pick up another truck. Now let's get the run done." My reply: "I can't drive this truck with a broken cab mount, whatever it is that's broken under there. I cannot drive the truck like that. It's not safe." Dispatch replied: "Another driver drove the truck down there like that. He said, 'The truck rides rough,' but didn't seem to have any problems with it." I replied, "When I climb in and out of the truck, you can see the whole cab move." Dispatch again: "I don't care; get in the truck and get the run done. I can't see anything being unsafe. Another driver used it last week and had no problems with it." Again I told him: "There's something the matter with the truck. I went over a set of tracks and the driver's door flew open." Dispatch replied: "I don't think there's anything wrong with the truck. You've got to get the run done." This is with a two-way radio. We were talking back and forth.

A few minutes later I called in the base and told them I had to refuse to drive the truck, that it was unsafe, that

there was a broken cab mount or something. I was told then to take the truck back to the yard and punch out, and dispatch again said: "I'll have it checked out at the truck dealership. If there's nothing broken on it, you and I are going to be sitting in the office for the last time." A few minutes later dispatch called me back and told me to take the truck to the truck dealership.

When I arrived at the truck dealership, a mechanic stepped up on the side of the cab and the door popped open. He almost fell to the ground. After examining the truck, it was determined that the bushing on the pin was gone and the pin was wearing. I called back to dispatch and told him that the dealership had checked it all out and I told him what the problem was. Then I was told to just drop the truck off there. I replied, "How am I going to get back to the yard?" I was told that arrangements were made for the people at the dealership to bring me back.

I went into the dealership and nobody there knew anything about it. Somebody had called and it was for me. The operations manager had called the dealership and asked me what I was doing there. I told him that dispatch had sent me there. When dispatch came into the room on the speaker phone, they denied it and then subsequently sent me back to the yard with the truck. I called back to the yard by phone to let them know what time I'd finished and again was told that I had not been sent to the dealership. One week later I was suspended for one week for insubordination and insufficient work performance — culminating incident: November 13 and 14. I was not told what I did wrong and to this day I still don't know.

On November 29 I was assigned a truck. In the course of that day I had a problem with the steering, in which it locked and I temporarily had no control of the truck. I also injured my left shoulder while trying to gain control. By December 4 the pain was so bad I could not sleep. I went to see a doctor. He took me off work and started me on therapy and medication. On December 19 I was fired while on compensation. I received seven discharge letters, in which I was not given any reason.

On January 28, 1997, I agreed to the minutes of settlement to go back to work when I was fit to do so and when I was off compensation. On April 22, I returned to work on light duty. On May 29, I was asked to take a roll-off truck with a 40-yard bin over to the recycle station and load a Bobcat. When I asked how I was supposed to chain it, I was told I didn't need to and they do it that way all the time without chains or anything.

I said several times I would not move it unless it was chained. I was told to just bring the 40-yard bin over there for now. I went over to the recycle station and dropped the 40-yard on the ground and called back for instructions as to what to do from there. When talking to dispatch, I told them I could not move the Bobcat without chains. Dispatch replied, "What do you need chains for?" "I need them to chain it down." They told me again: "You don't need chains. You don't need to chain it down."

I replied that it was against the law to move it without doing so. Dispatch then advised me to leave the bin there

and go back to the yard. When I returned to the yard, one dispatcher who is also the company health and safety rep went over to the recycle centre and brought the Bobcat back.

In closing, I would just like to say, I know there are drivers out there who have been fired, suspended or whatever and I think this is a part of the problem that needs to be addressed. I don't think that holding the driver responsible will help that situation but only make it worse for the driver.

The Chair: Thank you very much, Mr Horan. We have just under four minutes per caucus. We begin with the NDP.

Mr Bisson: Thank you very much for having come in and given your presentation. I think far too often we forget, at least from the perspective of this place, what the drivers go through sometimes just trying to do their jobs. I know as the transportation critic for the NDP I've had the opportunity to meet with a lot of drivers, and unfortunately the story you tell is not unique to you. I've heard it from different people and that gives rise to quite a bit of concern.

One of the things I've suggested, and I've talked to the ministry about this, is in cases where you're faced as a driver with unsafe work to give you the right to refuse unsafe work under the Occupational Health and Safety Act. Do you think, first of all, that would help?

Mr Horan: I've used that on a number of occasions and it just gets me into trouble.

Mr Bisson: You can't because it doesn't apply to drivers. You see, the problem is under the Occupational Health and Safety Act the truck is not considered a workplace. If you try to refuse unsafe work, you have no legal grounds to do it. What I'm proposing is that we extend the workplace to include the truck so that the driver then, if he or she refuses unsafe work, is protected by the act.

Mr Horan: It could, I guess. You'd have to follow all the regulations of the act to help, but just in itself then you know —

Mr Bisson: I come out of the mining industry and I've seen the industry before the days of the Occupational Health and Safety Act and after. I remember prior to its introduction the argument being used at that time by the Conservatives was, if you give workers the right to refuse unsafe work, they're going to be irresponsible about refusing. In fact the opposite happened. Employees in the mining companies where it applies and other places now have taken that responsibility very seriously and the cases of actual refusal are probably lower than what most people would expect. Second, it has really forced the employers to do things safely when it comes to that.

The other thing you say, and I guess just for the record it requires a bit of an explanation, is that in your case when you've reported unsafe conditions with trucks, you've actually been disciplined.

Mr Horan: Oh, yes. I have not been disciplined for reporting it, but subsequent to reporting it I've been disciplined.

Mr Bisson: How common is it that drivers find themselves getting less lucrative runs, less hours or disciplined because of refusing unsafe work?

Mr Horan: Myself, I don't think that a lot of companies are like that. I don't think it's a bigger problem than what it is. I think it's a small majority. I couldn't give numbers or anything like that, but it happens.

1650

Mr Bisson: What do you need us to do to help that situation to protect you?

Mr Horan: I don't know. If there was a way you could report it. It's hard to really say because almost anywhere you go, somebody puts you off to somewhere else and will tell you that's not their department kind of thing. You never seem to be able to find who can help.

Mr Klees: When you drive, do you do regular walk-arounds of your rig and your safety circle check?

Mr Horan: Circle check, yes, the best I can. We're told we're only allowed 15 minutes for that.

Mr Klees: Fifteen minutes is what you're given. When you do that and you find something, do you have a prescribed form that you make your notations on?

Mr Horan: Because we don't go outside of the radius, we don't have to use a logbook. We have a vehicle inspection report and we fill that out in the morning and when we get back.

Mr Klees: What do you think happens to that?

Mr Horan: They have the different columns that the mechanic signs off and they'll either fix it through the night when you've gone home or they'll mark it as "Further work scheduled." If there are brake problems or things like that, then you can't take the truck out the next day.

Mr Klees: You told us about a couple of pretty serious situations that happened to you. Had you done your checks that particular day, and did anything show up as you did that?

Mr Horan: In the instance with the cab, it was when you were driving it that you noticed. I mean to say you couldn't tell that the door was going to pop open until you were driving it. I had brought another truck into this truck dealership to have it fixed and they had another one waiting there for me. I had kind of a time limit. I had to hurry up and get into this other truck then, so I went around it the quickest or best I could. Whatever I could see, I checked out, but when I did leave, that's when I noticed the other problems with it.

Mr Duncan: I thought the government might address this issue, but the reason that trucks aren't considered a workplace isn't because legislation doesn't contemplate a workplace. It's the Highway Traffic Act that deals with the highways. The workplace regulation of a truck and intermodal carrier is a federal jurisdiction. That, I suspect, is one of the reasons why successive governments haven't really addressed that issue. The Occupational Health and Safety Act is confined to those workplaces which the province has jurisdiction over. My understanding is that it does not have jurisdiction over the transportation industry.

None the less, it's an important point to bring forward and it's something that should be worked out. The minister has given his undertaking, and I know the opposition will keep his feet to the fire to deal with the federal government in terms of looking at issues that fall under federal jurisdiction and are certainly worth pursu-

ing. But thank you for bringing forward your concerns. They're concerns that have been expressed by a number of truckers I've met with as well throughout the province.

The Chair: Thank you very much, Mr Horan. We appreciate that you took the time to come here to tell us your personal story. It's very helpful.

Mrs Marland: Let us know if you're penalized for coming forward and being so straightforward with us.

Mr Horan: Okay. Thanks very much.

MOTHERS AGAINST DRUNK DRIVING

The Chair: Could I call on John Bates, Mothers Against Drunk Driving. Good afternoon, Mr Bates. We're very happy to have you here and we're looking forward to your presentation.

Mr John Bates: I will skip through the presentation because something has come up that I heard from the scrum outside that I think shows a bit of a flaw here.

Just by way of background, Mothers Against Drunk Driving was established something like 15 years ago as PRIDE, People to Reduce Impaired Driving Everywhere. We then got together with the people in MADD and were just five people around the kitchen table then. We're now a massive, if I may use the term, national organization with 83 chapters in every province in the country. It's a different thing entirely.

Our mandate has always been the same. It's two things: One is to help the victims to survive and to live again and, two, to fight for legislation with knowledgeable legislatures to try and reduce this horrible carnage that's killing so many people.

We've seen dramatic changes in legislation in 15 years. Let's not kid ourselves there, but in many ways we've been doing the wrong thing. We've been aiming at the wrong target. We've run a wonderfully successful public awareness campaign but it hasn't got through to the people who are doing the killing. Can you imagine attacking any other campaign that way?

Let's look at the facts and where we think we've come a long way. This is from MOT statistics. The proportion of fatal crashes involving drinking drivers, the drinking drivers in fatal crashes, drivers killed who have been drinking, people killed in drinking driving crashes, has not changed since 1981. We're doing something wrong, quite clearly.

What we thought was working wasn't. Take a public awareness campaign and apply it to any other serious crime — how about "Friends don't let friends rob banks" or "You can lose a lot more than your gun if you rob banks" or "Know when to draw the line. Just rob Mac's Milk stores," or something like that — and expect that to have any effect whatever on the incidence of bank robbing. It wouldn't. So why do we think it would work with impaired driving?

We've had great leaps forward in legislation as well. The death of Casey Frayne, which is really the genesis of this entire campaign — that's June Callwood and Trent Frayne's son — his killer got a 90-day licence suspension and a \$500 fine. That was it, because impaired driving was considered funny in those days. You know Dean Martin's quip, "I was looking for my car in the parking

lot when some fool stepped on my hand." That's the way it was then and that's why Casey's killer got a \$500 fine and got off scot-free.

It's quite clear a new direction is called for, and that's why we support this new Bill 138. For the first time this legislation brings into focus the real problem, that is the understanding that the real target in this struggle is the hard-core drinking driver, the guy that does the killing.

By introducing lifetime suspensions to keep the most dangerous drivers off the road and by recognizing the fact that the interlock exists, we've taken a giant step forward. The hard-core drinking driver — 12% of the impaired driving population is represented by the hard core. They kill 82% of the people who are killed by impaired drivers. Now you don't have to be a rocket scientist to figure where our target is; it's him.

With Bill 138 — and I say we get calls from all over on our 800 number — 100% of the people support the legislation. Also 100% of the people phoning in say: "Why wait? Why are we waiting to put the interlock on? We know who the hard-core drinking driver is. It's the person who blows 0.165 or double the legal limit. Why don't we put the interlock on his car? If we suspend his licence, he's going to drive anyway. Some 70% of them drive anyhow. Put the interlock on his car now, on a first offence, and he can't do it."

The way it's set up now, if a person has their first impaired driving charge now, they wait for their third 10 years from now, then another 10 years before the interlock goes on. We keep waiting for 20 years to use the interlock. That doesn't make any sense.

I'm deviating from what I came here to say. I hear people say, "Oh, we don't need it." The Insurance Institute for Highway Safety — that and the International Highway Traffic Safety Administration are probably the two best safety organizations on the face of the earth — and I read here: "This statistically significant difference indicated that being in an interlock program reduced their risk of alcohol traffic violations within the first year by 65%." What do we need? Alberta got a 70% reduction in recidivists. We know the recidivists are killing most of the people. What are we waiting for? Why can't we put the interlock on now? Just do the math. If we can save 70% of 1,800 people, we're looking at saving the lives of 819 people simply by putting the interlock on. The interlock is absolutely foolproof. It works like a charm. They're getting 70% reduction in recidivist rates.

1700

That's basically what I came here to say. We support the legislation because it does break new ground. We recognize the fact of the hard-core drinking driver. We can get him at the very first offence because he blew over 0.165. To get that high, you've got a real drinking problem. Maybe not all of them, but we've got to assess them. The other thing is, where's the money going to come from to assess these people? We say you put 10 cents a litre on alcohol; that's where the money comes from.

I've put more information on the back, which I believe most of you have, about the high BAC driver or the hard-core drinking driver who is a person we have to get hold of on a first offence as soon as we can find him. To treat

him like we treat the low BAC, the casual 0.08 person, in the same way, is just crazy because they aren't the recidivist. The person at 0.08, "Oh my gosh, I got caught," they'll never do it again, but this guy, the 0.165 guy, he'll do it again and again. Our worse case, of course, was five girls killed by somebody in their 51st offence in Winnipeg. There should be no second offence.

I'll open it up for questions at this point, without carrying on.

Mrs Marland: John, I'm happy that you and I are here at this committee today because it gives me an opportunity to publicly thank you, personally, and Mothers Against Drunk Driving, because it's with your support and encouragement that I was able to develop my private member's bill dealing with drunk driving. A lot of the research that we took three years to do, which is now totally incorporated in this bill, is because of the work Mothers Against Drunk Driving has been able to do over the years.

What I really wanted to ask you, because you and I know some of this material very well, is, we're dealing with the driver who now has their licence suspended, and we're still hesitating to deal with that person, and yet in this province today if somebody hunts or fishes without a licence, they can have their vehicle impounded — their boat, their motor, their snowmobile — whatever means that they are using for transportation while they are hunting and fishing illegally. They have the impoundment. I am wondering, with your experience over 15 years that it's taken you to help us get to this point — initially with my private bill and now this bill — why do you think we've gone through this period where we think it's more important to protect the fish, the fowl and the wildlife in our province than people?

Mr Bates: Mrs Marland, you've been so available to us whenever we needed a window into the Legislature and we appreciate what you have done; it's a two-way thing. In the very first presentation I ever made — I think it was to city council — we said, why is it if you take a fish out of season, you can lose your boat and your car and your fishing equipment and you won't get them back? They're sold at auction. If you kill a child while you're drunk, nobody really cares except us. It's one of those anomalies in the law that will remain a mystery forever. I don't know why that happens to be, why we spend more time protecting fish than we do people.

Mrs Marland: What you're here suggesting today, John, is that if the repeat conviction for drunk driving is based on the higher consumption, and say it's their second conviction, the ignition interlock system should go on then and not wait until they do it the third time.

Mr Bates: Oh, sure.

Mrs Marland: You want to be more lenient to the person who blows just over the minimum, but if they blow heavily, you feel that the hammer should come down on them at that point.

Mr Bates: If our objective is to stop the killing, we have to target on a person we really know now, after all these years, is going to be the killer. We get him off the road as soon as we can and keep him off the road, and we do something. We know he's going to drive under

suspension. If we put the interlock on his car as soon as we can, why wait for 20 years? That's crazy.

If he does drive under suspension — I mean all the same penalties apply for driving under suspension — at least he won't drive under suspension drunk and kill somebody. The number of people who are killed by people who are driving under suspension while they're drunk is just appalling.

Mrs Marland: Like the man who came out of jail after two years for killing an adult and then killed a child within two weeks of getting his licence back.

Mr Bates: Candy Lightner. We can all see so far because we're standing on the shoulders of Candy Lightner of MADD in the States.

Mr Duncan: Thank you very much for your presentation. Could you take a bit of time to tell us a little bit more about the Alberta experiment? We've heard quite a bit about it, but nobody's told us who it was applied to and how it was used.

Mr Bates: There are several ways this is done. This is done throughout the States and Alberta and there's nothing really new about the interlock, but it can be used, for example, to reduce a person's suspension. If somebody has a 10-year suspension, we say, "Okay, you can have a five-year suspension if you have the interlock on." It has other purposes as well. For example, this business of one family car and two people working. If you impound the car, then you take that away from the spouse who didn't do anything. You can harm the whole family. Put the interlock on the car. The other person can be taught to use it.

Mr Duncan: I understand that, but in the specific example of Alberta, who did they use it on? First-time offenders? Second-time offenders?

Mr Bates: On first-time offenders and all offenders.

Mr Duncan: On all first-time offenders.

Mr Bates: Yes. When their suspension period was over, they put the interlock on and that's where they got the 70% reduction.

Mr Duncan: That was a test. If they incorporated that into their —

Mr Bates: It doesn't have to be incorporated into anything. I talked to senior Ontario court judges about this. We don't need legislation. We can put it on right now.

Mr Duncan: In Alberta are they putting it on in all cases now? Do you know?

Mr Bates: Not in all cases. People have to apply for it and be assessed as being suitable candidates for the program and so forth, but it has another effect and that is that people have an alcohol problem and it's helped immensely with their alcohol problem. There's no such thing as a cure for alcoholism, but it certainly has helped their problem.

Mr Bisson: Further on the same line of questioning, in the cases in Alberta where they have put the interlock on for first offences, how long does it stay on? Forever? Is there a term?

Mr Bates: It stays on for a year. That's what the test is. That's what they're doing at the moment, a year, and they'll see what happens after that. That's where they got their 70%. It was after that year that they got their 70%

reduction and we're still waiting for the first case of somebody to be killed by a drunk driver driving a car that's equipped with an interlock. It hasn't happened yet. We're still waiting to find the first case.

Mr Bisson: I understand.

Mr Bates: When the interlock is on, it's 100%.

Mr Bisson: I understand that part. So for the first-time offenders, what they've done is they've only installed it for one year. After the one year, then it comes off.

Mr Bates: That's right. It doesn't change the suspension period.

Mr Bisson: I guess the question I ask is that if that happens, we're really taking a bit of a leap of faith here that the drunk driver has cured his or her drinking problem.

Mr Bates: That's what has happened in many cases. Somebody's drinking problem has been alleviated somewhat. As we all know, alcoholism is a life-long disease. There is, and I could leave it with the committee, the study that was done in the States with the Insurance Institute for Highway Safety.

Mr Bisson: What's MADD's position? This legislation basically says on third offence we'll put the interlock on. I take it what you're asking this committee to do is to amend the legislation so that on the first offence it would be put on. For what? A year?

Mr Bates: For one year following the suspension. If the person is caught driving under suspension, everything applies, but you put the interlock on.

Mr Bisson: But after that, on the second offence, it would have to be for longer than that.

Mr Bates: It could be on their car for —

Mr Bisson: I guess where I'm struggling a little bit is I know something of alcoholism and what it means to people and how it affects people.

Mr Bates: So do I.

Mr Bisson: It's a disease that's very difficult for people to deal with, but putting the interlock on for just the one year I don't think is enough in the end to really deal with the alcoholism. If they're going to be repeat offenders —

Mr Bates: That depends entirely on the way the legislation's written. It can say: "Wait a minute. Until you can prove to a medical tribunal that you no longer have an alcohol problem, the interlock will remain on your car." 1710

Mr Bisson: I know you've had an opportunity to speak to the minister about this or at least listen to the answers in his press scrum earlier. Why do you think the government won't move?

Mr Bates: The answer I got out there was because there are no studies involving the interlock. There are dozens of them. That's where I brought out this one, from the insurance institute. It's actually a study done in Maryland, The Effects of Alcohol Ignition Interlock License Restrictions on Multiple Alcohol Offenders: a Randomized Trial in Maryland. It's all done. You can get that for the committee if you want it.

Mr Bisson: Just for people who might be watching, because it might not be clear to some, in a case where an interlock is installed on a vehicle and there are two

drivers on the vehicle, one is the repeat offender, the other isn't, explain what happens and how it works.

Mr Bates: That's the mouthpiece for the interlock. The interlock goes on the car. It could take an hour to talk to you on how the interlock works, but I won't bother. It's about the size of a Walkman or something along that line. It comes out through a retractile cord. It looks much like a cellular phone. You blow into that thing in a special way, and you have to be taught to do it and it's extremely difficult. Then, if it detects alcohol, it won't start.

The spouse or other family members can also be taught to use the interlock. If somebody wants to go into a beer store and leave the car running for example and come on out and drink while the car's running, it won't let them do that either because it calls for random testing every 15 minutes or whatever you want. Then it's taken out of the car. At the end of a month, for example, it goes to the parole officer who in turn reads the chip in the memory and he can tell everything the car did. If he tried to start the car while he was drunk, the parole officer would know.

The Chair: Thank you very much, Mr Bates. We appreciate that you came here today.

Could I call upon Liberty Linehaul, Mr Brian Taylor, if he's here, to come forward.

Mrs McLeod: I wonder, first, if it would be possible to have the study that was referred to by Mr Bates tabled for the members of the committee. Second, would it be appropriate to ask the parliamentary assistant if he would explore with the minister and report to the committee on the reasons why the interlock system is being delayed to this extent in the Ontario proposals.

The Chair: Very well. Can the researcher provide the first report? I'll leave you to do that and, Parliamentary Assistant, if you will undertake that.

Mr Klees: That was my question precisely. I would just add to it that I think Mr Bates indicated there were a number of reports, and if any additional reports could be sourced, I ask that those be tabled as well.

LIBERTY LINEHAUL INC

The Chair: Welcome, Mr Taylor. We're pleased to have you here.

Mr Brian Taylor: I wouldn't say I'm intimidated here today. I think more like scared to death would be appropriate.

The Chair: Mr Taylor, there's absolutely no reason to be afraid. Just take your time.

Mr Taylor: I didn't ever expect to come to Queen's Park, let alone speak here. I'm going to give you a little bit of background on myself. I started out in the trucking industry 20-some years ago. I started out as a motor vehicle mechanic. I acquired my licence and I drove a truck, and then I was an owner-operator for a company and worked for various companies and operations. I presently own a 50-truck fleet in Ontario.

Through a series of circumstances I ended up involved with the OTA at the Worona trial hearing for wheel-offs. They asked me as a carrier who had a good safety rating and who followed proper wheel installation for the past nine or 10 years, since we've been in operation, if I

would represent them as a good carrier at that hearing. I went through that series of hearings and answered questions from the families and experts on wheels.

After that I was involved in the wheel installation program and legislation that came from that, the program we developed at the OTA, and worked in conjunction with MTO on for drivers setting up brakes and those criteria. Then I was involved in Target '97, mostly in the maintenance side of Target '97.

I was very pleased with the outcome of Target '97. We looked at, with a good cross-section of people from MTO, the OPP, the insurance industry, just about all facets of our industry — and from different branches of government at different levels. We had people from the MTO there at the grass-roots level who were out and doing inspections every day. We had people who were writing their legislation. We looked at it very objectively. As a carrier, I didn't always get what I thought I should get, but we were able to come to conclusions and look at things very objectively and come out with some concrete ideas.

We looked at things like introducing mandatory facility audits. If we're going to license a carrier in Ontario, let's look through and do an audit on them and make sure they're complying when they start off. Let's start off that way. Let's know where we're starting from. We looked at the CVOR point system. There are things in the system that don't make sense, that a speeding violation is the same points as for a fuel sticker missing on a vehicle. Because the carrier may have high points in CVOR, it isn't really a measure of what his safety rating truly is. It may be in violation of certain laws in Ontario but it may not make that carrier unsafe.

We looked at it and said: "Let's clean some of that up. Certainly we don't want carriers to be in violation of any laws in Ontario, but let's be able to look at the rating system by points and say, 'This carrier is unsafe; this one is safe,' and through that focus our inspection people to the carriers that are unsafe. Let's clean it up that way. Let's provide a mechanism to do that."

We looked at driver's licensing. We said: "We have graduated licensing in place for private motor vehicles in Ontario and yet we have a system for trucking companies that allows them to go through a three-week course and get into a vehicle and drive a truck. That's not right."

We've gone through deregulation and we've had tremendous growth in our industry in the last few years. What was the norm in practice in our industry in years gone by was that people progressed through that industry starting on a dock level position to a straight truck to a tractor-trailer. Now what we're seeing, because we're short of people in our industry, is people coming out of a training school and going directly into a tractor-trailer. Carriers aren't compelled to do any training after that. In my mind they are completely out of their mind if they don't, because that person isn't in the least prepared to drive a tractor-trailer down our highways. I think they do adequate training for them to pass the test, but to be a qualified driver or operator of that vehicle, there's certainly more work to do with those people.

Most competent carriers do that. They train them with other people and do that. It's a pretty complicated job

today. I don't think you can absorb that in three weeks in a classroom. There aren't very many jobs that you can absorb that quickly.

The biggest part that I was involved in was the maintenance part of this Target '97 group. One of the things that we looked at is that we have a bunch of different legislation pertaining to trucking. One is 575; one is 611. There are some hidden in different parts of different legislation where lights are in with car stuff and then there are some truck lights tucked in there.

What we said is that, first of all, if we're going to expect people to meet certain criteria, let's get the rule book out and let's make a new one. Let's make one just for trucking. Let's put all the rules down. Let's make that available to MTO, to OPP, to the trucking industry. Let's require the OPP and the MTO to get some training so they understand the regulation completely as to the trucking companies.

It's very hard to start to change something in an industry if everybody's not playing by the same rules and the rules aren't well defined and written well so everybody understands them. That's the basis of the thing. That's where we want to start, to do that and clean it up.

I felt very confident in the people I met through Target '97 at MTO at the higher levels who actually do the writing of legislation that they could do that and make it comprehensible to people. We're not dealing with university graduates when we deal with mechanics. We're dealing with people who work well with their hands. They have to be able to understand it. They have to be able to work with it. That's the place we want to start, to first of all make the legislation, and let's pull it together into one book.

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Then we want to look at, if we're going to set some criteria, let's set them for who should be responsible for that. If something isn't maintained properly on a vehicle, whose ultimate responsibility is that? Does it fall on the driver or on the operator or on the carrier? Who does it fall on? Who should it fall on?

We looked at some of the criteria for driver inspections and said the driver really now, under the present legislation, is expected to crawl under the vehicle. In all reality, that's not going to happen every trip. Most people should check their oil in their car every morning and walk around it and make sure the lights work. They don't do that. It's not going to happen. It doesn't matter what the law says, you're not going to get a guy who comes into work after a mechanic's just come out of his shop and who is going to crawl under that vehicle on the gravel on his back and look, nor is he qualified to do that. He can't identify those things. It's like most of the people in the room. It's great to say that you can look at your car, but you really don't know what you're looking at unless you're qualified to do that type of work.

So we're saying let's write in this and say what a driver should do in an inspection and what we can really make him responsible for. Then let's write it so that he is responsible, that he has some responsibility there, and that he could be fined if he doesn't follow certain criteria and proper inspection.

Let's put some onus back on the mechanic. The shop can do all the training they want and they can provide all the equipment and they can provide the facility and the clean environment and safe workplace, but it comes down to attitude. You can enhance that through education in a lot of different ways, but part of it is they have to have responsibility. They have to have due diligence here to do proper work.

I think we want to have different levels where the responsibility lies here so we can get at the people that we should be getting at and make it a keen interest, that they have an interest here and they're going to buy into this program.

The other thing, and I've said it a few different times, is that one of the things people don't seem to understand in the general public is that companies that aren't maintaining vehicles properly aren't saving money. It's not cheaper to not maintain vehicles, and it's not any different no matter what size the vehicles. It's the same as your own car. If you let the little things go, they turn into big things and it costs big money.

One of the things that happen in our industry is that some people are ignorant to that. There needs to be some education. They're not aware of that, but slowly that mindset is coming around, and I think our vehicles have changed drastically, as our cars have changed. We've introduced electronics and a whole lot of different things. So there's a big need for education at our maintenance level.

The other thing we looked at is that mechanics should be licensed to do safety certificates. Outside of their licensing now, if a mechanic was found to do a faulty safety check now, to have any recourse back to that mechanic the only thing you'd be able to do is take away their mechanic's licence, and I don't think that would stand up in court. You're taking away their right to make a living and they've passed the criteria to do that.

What we could do, though, is give them, like a driver's licence, the ability to write a safety certificate on a truck and make them so that they have to stay updated every year on the changes in legislation. This legislation change is ongoing. As equipment changes and as the manufacturers change standards, those things change. So we have to be able to have them updated yearly on that and performing inspections to a certain standard. In Ontario in the last few years we've increased our legislation, we've said we have to inspect vehicles yearly, but we're not controlling the quality of people who are doing those inspections. We're saying that a guy who wrote his licence 25 years ago and got his class A licence and has only repaired cars for his whole life can now sign a safety inspection for a heavy truck, a class A truck. He may know nothing more about a class A truck than some of the people in this room that have never worked on a vehicle in their life, in all reality. He understands the basics of mechanic principles, but he doesn't know how to effectively do that inspection.

There's nothing compelling him today in the legislation to keep abreast of the changes in that legislation. So I think we need to look at that and say it's great to say we have yearly inspections, it's wonderful, but we have to

have criteria here to say, "This is the level that they have to do them to, and these are the people who are qualified to do them," and limit the amount of people who can do that, whether that's inside the industry or outside the industry in the private sector, outside of the trucking companies or whatever, outside of the licensed inspection stations. But there have to be certain criteria that we're going to meet so we have some consistency.

One of the things we tried to do when we looked at all of the proposed changes to the legislation was let's try and keep it abreast of what's happening on the rest of the continent. As much as we can, let's try and make it work in the United States and all the other provinces in Canada, because you can't be an island upon yourself when you make this type of legislation, and we realize that. Yet I think what we've proposed here is leading the rest of the country, if not North America, in what we're going to do and have in legislation for truck maintenance and criteria for vehicles.

But we have present standards now, like vehicle-out-of-service standards, where they would deem to be out of service and it's not law. We need to make those law. We have inspectors who can inspect vehicles and at certain times they don't have a category to put it in. They can't fine an individual because that out-of-service criteria is not law.

One of the other things we looked at was driver inspections. I think that's an important thing because although we're expecting mechanics and trucking companies to meet a certain level of maintenance and compliance, the driver is the ultimate person controlling that vehicle, and he has to be compelled to do an inspection of that vehicle on a daily basis.

One of the things in legislation now is that if he travels under a 160-kilometre radius, he doesn't have to do that. He has to do the inspection but he doesn't have to record it. In all reality, if you're not recording it, if you're not signing that you've done it, really there's no way — you can't take the guy to court and say, "Well, you didn't do your proper inspection or you'd have noticed this," because he didn't sign anything; he didn't acknowledge that he's even done this inspection. I don't think there's a magic number, whether it's 160 kilometres or 200 kilometres or 50 kilometres. If that vehicle is leaving on a trip for that day or that week, it should be inspected, and it should be inspected every day.

I think it's important to realize that there's a good portion of the trucking industry that has followed some of this criteria for a long, long time and has done some of the things we're proposing to make law here in an ongoing way for the last quite a few years because it only makes good economic sense to do it. We have a moral obligation to our people who work for us and the public to run safe equipment and it's an economic advantage to us to do that. Unfortunately, the whole industry isn't doing that. There's a small percentage of them that aren't, and we have to legislate some of the things that are only common sense back into our legislation.

That's about all I have to touch on, the high points. I'm sure you all have copies of it and are well aware of it, so are there any questions?

Mr Duncan: Thank you for your very thoughtful presentation. Are you satisfied with the progress of implementation of the Target '97 recommendations?

Mr Taylor: No, not really. I think there's a lot of work to it after it's accepted as legislation. There are a lot of things to right here and it's going to take a lot of time I think to put that in place. After we approve it, we're a ways from actually being able to implement it. So I think the more expedient we can be in approving this in principle, then we can actually write the legislation.

Mr Bisson: To one part of your presentation, with the time that we have, I've heard this suggested before. Presently, garages are given MVISs, motor vehicle inspection stations, the ability to give the mechanical certification for the truck. You're suggesting that it not rest with the garage but with the individual mechanics?

Mr Taylor: No. I think it can still rest with the garage or it can rest with the trucking operation that has the MVIS, but I think there should be separate criteria for truck inspections and that those mechanics should have a special accreditation that's not part of their licence. Right now, if they're a licensed class A mechanic, they can perform it. I'm saying they'll have to have another criterion besides their class A licence that will enable them to do that.

Mr Bisson: So it's not good enough just to be a mechanic. You'd have to have additional certification to be able to actually do the inspection. That's what you're suggesting?

Mr Taylor: Yes.

Mr Bisson: The other question I have, and part of it was asked by my friend in the Liberal Party, is the whole issue of Target '97. About two thirds of what's in Target '97 should be able to be done by regulation. If that happens, it means to say it's cabinet that decides; it's not the Legislature. There's no public process. Do you think there needs to be a public process to the implementation of Target '97, or is it good enough just to leave it in the hands of cabinet?

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Mr Taylor: I think, because of the cross-section of people who were involved, like the OPP and the MTO and the government people who were involved, that we've already involved the public process, and I think from a more knowledgeable level of what's involved in our industry. I was very pleased that we had a good cross-section of people involved in it. Where I, being in the industry, would have implemented a particular law, an officer is there saying: "That's well and good, but it's very hard to implement that and it's very hard to police that. Maybe we should be following this path. It will achieve the same thing but it'll be easier to administer from our level."

Like all legislation, you don't want there to be loopholes in it and you don't want people to be able to avoid it. You want to be able to go in a direction and set some guidelines and try to make that as firm as you can, and I think we had enough representation from different areas to be able to do that.

Mr Jerry J. Ouellette (Oshawa): Thank you for your presentation. You open a lot of doors with it, but unfortu-

nately due to the time constraints we won't be able to go through all those doors.

You mentioned getting your mechanic's licence 20 years ago, and I would suggest there's been considerable changes to requirements for truck drivers, or for truck mechanics as well. There are a lot of jurisdictions that don't have mechanics in any way, shape or form. They don't have to be licensed. You talked about the CVOR ratings as being somewhat questionable, although I would ask, where is there a better system out there in any of the jurisdictions in North America that we're dealing with?

The walk-around aspect: You talked about the truck drivers and that, whereas when they take their test, a part of that test is the actual walk-around to make sure they are physically checking to make sure of their vehicle.

You talked about one rule book for everyone. The difficulty is that we're in North America and we have NAFTA and we have to deal with all of the jurisdictions. How do you see us as having one rule book for all of North America when trucks from every part of the country cross our borders as well?

Mr Taylor: I think we can have one book for Ontario, and like I said, when we looked at it, we looked at what rules we could change in Ontario to bring companies within compliance and still be in compliance with the other provinces and the criteria from the United States. I think from what we put together it meets that requirement. In some cases it's more stringent in Ontario, and that makes no difference to us really. All carriers will have to comply to that if they come into Ontario. We've made that very clear.

I don't think that would be a problem from what we put together. I've been involved in other jurisdictions, and when you ask what jurisdiction is better than Ontario, I think California is a very good one. They have a system that works likely better than ours. We've had trucks running in there for nine years now and I've been to California numerous times myself and gone through their inspection process and understand it very well, as did some of the people from MTO who have toured the country.

Some of the things they use there on a daily basis we've tried to include in here, like where there's a minor defect not to give the guy a fine and let him go, but to say: "Here's your fine. If you can come back in 48 hours and show that this is repaired, you can avoid that fine." Now we're ensuring that those little things are being taken care of or they're going to pay the fine, so we're encouraging that we have some monitoring system. If you have too many minor defects, it becomes a major defect and then you face the consequences of a major defect.

The Chair: Thank you, Mr Taylor. You gave us valuable insight into all facets of your industry. Thanks for taking the time to be with us today.

Mr Marland: I have a question to our researcher.

The Chair: Yes, if I could — sorry. Did you want to add something?

Mr Taylor: The only comment I had is that I did leave my card with the secretary and I'd be more than willing to provide any information to anybody if they'd like to call at the office. I'm there every day, and by all means, if I can enlighten anybody or help them or provide them with information, I'd certainly be willing to do that.

The Chair: We appreciate that very much, Mr Taylor. Could I call upon the Ontario Medical Association, please: Dr John Gray, Dr Ted Boadway. Mrs Marland?

Mrs Marland: Madam Chair, I just want to say before Mr Taylor leaves that I would like to obtain from our researcher some of the examples that Mr Taylor brought to the committee. When he talks about out-of-service criteria being law, I would like to know what that means and how we could incorporate something like that into this bill. Also, when we talk about what is mandatory training, he talked about the very relevant point about how drivers aren't qualified to do the same kind of inspection that mechanics are.

Frankly, I think Mr Taylor's presentation was an excellent one for all of us to hear today. If we could get this supplementary information from our researcher it would be excellent, including if there is any information out there about whether the trucking industry has something similar to a black box; I keep coming back to the aircraft analogy. I know there are governors that control the speed of trucks and some companies use them. I need to have some of that information. I am impressed that the Minister of Transportation has come back in; I've never seen a minister come back and sit in a committee room and listen. But I think we do need some more information before we get into our clause-by-clause next week.

ONTARIO MEDICAL ASSOCIATION

The Chair: Welcome. Thank you very much for coming here this evening. You have 20 minutes for your presentation and if time permits we'll ask you some questions.

Dr John Gray: Good afternoon. Thank you for allowing us to present. My name is John Gray. I am president of the Ontario Medical Association. With me is Dr Ted Boadway, the executive director of health policy at the OMA. We're speaking at the end of a long day and I appreciate you allowing us to speak.

The Chair: We've saved the best for last. We're halfway through our day. You might want to take that up with the minister since he is here.

Dr Ted Boadway: Value for money.

Dr Gray: Dr Boadway, along with his staff, has led extensive OMA policy initiatives on road safety and is very familiar with the issues of addiction and rehabilitation.

In opening, I would like to state that the Ontario Medical Association is a long-standing supporter of road safety initiatives. The OMA has often offered its support to the Ministry of Transportation to protect the public from high-risk and unfit drivers. I, along with my colleagues, witness the tragic and horrific consequences of motor vehicle collisions caused by drunk drivers. As doctors, we work to save the lives of mangled and disfigured collision victims in emergency wards across this province every day. But we also witness at first hand the irreparable damage this condition inflicts on the families involved.

To this end, the OMA would like to congratulate government for the introduction of Bill 138. This comprehensive legislation encompasses many road safety issues. We believe the bill will assist in getting high-risk drivers

off the road. We are also glad to see that truck and bus safety, an issue of significant public concern, is now being addressed. But today, the OMA would like to focus on the drinking and driving countermeasures the government has introduced to deal with repeat offenders.

Drinking and driving is the leading cause of death among Ontarians under the age of 25. The OMA would like to extend its professional advice and support to the effort to eradicate this horrific public health problem.

In November 1994 the OMA released a policy report on drinking and driving, which we have circulated for your review. This report, which was widely endorsed by key organizations associated with drinking and driving countermeasures, outlines 15 recommendations for action. We are pleased that some of our recommendations have already been implemented by government. For example, administrative driver's licence suspension was introduced last fall. We have also recommended the implementation of mandatory rehabilitation programs as well as educational programs for impaired drivers who are repeat offenders.

The OMA is pleased to see that under Bill 138 the government is considering implementing mandatory educational, treatment and rehabilitation programs for impaired drivers and repeat offenders. In the legislation these programs will be instituted and administered through regulation. While we fully support these measures, we have some concerns about how the programs will be implemented. Our premise is that for such programs to work to their maximum benefit, they must be structured and administered properly to effectively combat drinking and driving.

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Physicians have extensive knowledge, expertise and experience in the treatment of alcohol addiction. We are in a position to advise on the appropriate methods to implement such programs. As clinicians we treat alcoholism in the patient setting and as case managers we are familiar with the necessary attributes of treatment programs to ensure their long-term success. Given this broad experience, we believe we can be of assistance to you in implementing mandatory programs in Ontario.

We know from the literature and from professional experience that mandatory programs can work. The OMA therefore recommends that the programs to be developed under Bill 138 should be based on the following six principles:

- (1) There must be an evaluation of the nature and extent of the addiction problem.

- (2) The treatment programs must be of such calibre that they induce confidence in the recipient driver.

- (3) There must be various phases in the treatment process after the acute phase.

- (4) Such programs must have long-term follow-up with effective and consistent monitoring of compliance.

- (5) Repeat offenders and impaired drivers must enter into a written contract with the mandatory treatment program and agree to follow the regime in order to ensure compliance.

- (6) Lastly, there must be real and serious consequences for noncompliance with the program if contract obligations are not met.

Of all of these points, I would like to stress that for any mandatory program to be successful there must be follow-up and monitoring. We know from the literature and from our experience that there is a high incidence of relapse in the first two years of follow-up. Thus, the OMA recommends that monitoring should continue for at least five years to achieve a high success rate.

The OMA also recommends that during the drafting of regulations, government establish a committee that will provide physicians with the opportunity to consult and ensure that treatment programs are effective. In this regard, the association would like to offer its support and assistance.

As with many conditions, the impact of drinking and driving transcends various boundaries: social, economic and medical. To date, our efforts as a society in battling this condition have met with limited success. We are doctors, not legislators. However, we believe that unless the laws against drinking and driving are expanded and enforced, our ability as doctors to ensure optimum health for the citizens of this province will continue to be undermined.

We believe drinking and driving is one of the most important public health issues we face today. The measures introduced in Bill 138 reflect our desire to completely eradicate drunk drivers and repeat offenders from our roads and highways.

I'd like to thank the standing committee for the opportunity to present to you the OMA views with respect to Bill 138, and both Dr Boadway and myself are prepared to answer any questions.

The Chair: Thanks very much. We have just about four minutes per caucus.

Mr Bisson: Thank you very much for having presented. You write in point 5, "Repeat offenders and impaired drivers must enter into a written contract with the mandatory treatment programs and agree to follow the regime in order to ensure compliance." Then you talk about, "Lastly, there must be real and serious consequences for noncompliance...." What would those consequences be? Are you suggesting jail terms? Are you suggesting fines? What are you getting at here?

Dr Gray: These are not medical questions. I think they're societal questions and I believe the people in this room at your side of the table are best in a position to answer those. But our belief is that there should be consequences, that people understand that they have engaged in a written contract which is binding on both parties, that there will be consequences for failure. But the nature of those consequences I think is best addressed by the Legislature and by society at large.

Mr Hastings: Dr Gray, it's come to my attention from the Driving School Association of Ontario that the cost of accidents, fatalities, tragedies and injuries amounts to about \$9 billion, about the equivalent of our deficit today. Can you confirm how that figure is arrived at?

In your proposals on the six principles that you are outlining here, do you see the cost or partial cost for the implementation of the contract and some of the consequences follow-up being paid by the offender? Because it seems to me there are cost implications to the health care system in your additional principles.

Dr Gray: If I could maybe try to answer a part of your question — and I'll perhaps let Dr Boadway expand — I haven't had an opportunity to review the figures you mentioned in terms of the costs to the province. I assume those include not only health costs but also presumably employer costs and whatever. We certainly would be happy to review those figures and try to do our own economic analysis of at least the health aspect. Certainly the health costs are significant, there's no question: hospital time, rehabilitation time afterwards and so on.

In terms of who should pay for the programs, it's a valid question. We have not addressed that in our submission. We are aware that in other jurisdictions people who enter into mandatory programs are often responsible for the costs and maintenance of the program by themselves or at least in partnership perhaps with others. It's a valid question to ask. We have not addressed it specifically because we believe that's beyond our expertise. We know mandatory programs do work. The actual funding of these I think is open to debate.

Dr Boadway: It has been recognized from time to time that part of accepting responsibility for the rehabilitation and for your own condition, part of that recovery is assuming a financial responsibility for the costs that you incur, yourself and others, while you do it. So some rehabilitation programs do charge the testing and so on that's part of a monitoring program directly to the enrollee. This can be fairly expensive. Early on the monitoring might be quite frequent. Of course, as time goes on it stretches out and out. The costs may be up to \$100 a month; it's not trivial. Some can pay, and where they can it's often thought it's a beneficial thing to their treatment that they accept this responsibility, but some cannot because many people who are in depths of their addiction do not have a functional life.

Mr Hastings: I'd be very appreciative if we could get some follow-up in this area in terms of who's responsible for costs, because the public health care system argues that everybody has access and you want to make sure that everybody is brought back to as functioning a human level as possible. Where does the breakdown occur and where should the charges or costs be allocated for automobile accidents involving drunk driving?

Dr Boadway: Right now, the costs are massive and they occur directly to the health care system, just about every night, in particular, in this province. I don't think anybody really totes that up very well, quite frankly, when we've looked at it. No one has the ability at the present time to do accurate statistics, but the global statistics that have been created are actually pretty good, and although you can't dollars and cents them, they actually stack up pretty well.

Mr Duncan: If I can anecdotally address that, I can tell you that in the program I administered the vast majority of repeat offenders don't have the resources to pay. If you've been convicted of drunk driving four times, chances are you don't have a job, chances are you are driving without insurance. I think any kind of evaluation of those repeat offenders would discover that the folks you're dealing with, that client base you're dealing with, are simply not going to be in a position to pay for it.

Depending on the nature of the program, the cost of individual programs in the United States, where there's a greater history of private programs, can range from a very low amount that's subsidized through a non-profit organization up to a place that can charge out a lot of money, but it would be my observation, and anecdotally I can say, that a lot of the people you deal with who are repeat offenders would not have the resources to access a paying program.

In Ontario we've developed over the years a whole range of options. Correct me if I'm wrong, but I believe a doctor can in fact bill under the fee schedule for certain services provided to an alcoholic, a counselling service. Is that correct?

Dr Gray: That's correct. And there are institutions, such as Homewood and Donwood and so on, that are dedicated to these programs.

Mr Duncan: There's a whole range of options available now that have been endorsed that don't involve

costs. I would suggest to the government that they heed the words of the OMA and recognize also that for those offenders who are required to take a program, while I agree with the intent of making them pay for it, the reality is that with a lot of these offenders you're going to have trouble getting money out of them. The government should be prepared for that reality. We already are through the Ontario Substance Abuse Bureau; I don't know if that's what it's called these days. There are programs and there are services that are subsidized by public health insurance as well.

The Chair: Thank you, Dr Gray and Dr Boadway. On behalf of the committee, let me express our appreciation for your presence here today and for your presentation.

Ladies and gentlemen, this concludes our hearings for today. We will reconvene on Monday, June 23, at 3:30 in this room. I know you will miss us all. We are adjourned.

The committee adjourned at 1750.

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Journal des débats (Hansard)

Lundi 23 juin 1997

**Standing committee on
social development**

**Comité permanent des
affaires sociales**

**Comprehensive Road
Safety Act, 1997**

**Loi de 1997 sur un ensemble complet
de mesures visant la sécurité routière**



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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Monday 23 June 1997

Lundi 23 juin 1997

The committee met at 1536 in committee room 1.

COMPREHENSIVE ROAD SAFETY ACT, 1997

LOI DE 1997 SUR UN ENSEMBLE COMPLET
DE MESURES VISANT LA SÉCURITÉ ROUTIÈRE

Consideration of Bill 138, An Act to promote road safety by increasing periods of suspension for Criminal Code convictions, impounding vehicles of suspended drivers, requiring treatment for impaired drivers, raising fines for driving while suspended, impounding critically defective commercial vehicles, creating an absolute liability offence for wheel separations, raising fines for passing stopped school buses, streamlining accident reporting requirements and amending other road safety programs / Projet de loi 138, Loi visant à favoriser la sécurité routière en augmentant les périodes de suspension pour les déclarations de culpabilité découlant du Code criminel, en mettant en fourrière les véhicules de conducteurs faisant l'objet d'une suspension, en exigeant le traitement des conducteurs en état d'ébriété, en augmentant les amendes pour conduite pendant que son permis est suspendu, en mettant en fourrière les véhicules utilitaires comportant des défauts critiques, en créant une infraction entraînant la responsabilité absolue en cas de détachement des roues, en augmentant les amendes pour dépassement d'un autobus scolaire arrêté, en simplifiant les exigences relatives à la déclaration des accidents et en modifiant d'autres programmes de sécurité routière.

MARGUERITE DUGGAN
SUZANNE SABOURIN

The Acting Chair (Mrs Lyn McLeod): We will begin now. I am going to ask the first presenters, Suzanne Sabourin and Marguerite Duggan, if they would come forward, please.

While they're taking their seats, I just draw to the attention of members of the committee that you've had some information that was requested tabled for you. You first of all have responses, some answers from the ministry on questions that were raised at committee. You also have received the report on the interlocking device that we had requested. Mothers Against Drunk Driving have provided us with that report, made it available to us. I've already tabled the lane restrictions for commercial vehicles on 400-series highways. As well, there is a video that has been made available to every member of the committee on the interlocking device. Thanks to staff of the committee for obtaining materials so quickly, so we could deal with them before we get into clause-by-clause.

Ms Sabourin, Ms Duggan, thank you very much for being here to make your presentation to the committee. You have 20 minutes to make your presentation.

Ms Suzanne Sabourin: I'm Suzanne Sabourin.

Mrs Marguerite Duggan: I'm Marguerite Duggan. First of all, I'd like to thank the committee for giving us an opportunity to speak. I hope you don't mind that I'm going to read most of this from my notes. I didn't want to forget anything, so I typed it out.

As you know, we're here to speak on truck safety. We were asked to write down our own thoughts as to what the family is going through and some of the issues that concern us on truck safety.

Six months ago, our family was happily celebrating the Christmas holidays. We're a large family and we always looked forward to those times when we could all be together. Our mother, Robina, and our sister, Mary, were always at the centre of these occasions. They were the core and heart of us all.

On December 28, while they were travelling to Montreal to spend New Year's with our two sisters living in Montreal, tragedy struck and our lives were forever and irrevocably shattered. The phone calls came to tell each of us how a dual set of truck tires had crushed their car and killed them instantly. Our mother and sister were dead. It was a call that will forever haunt each of us.

Before that day, in our safe little world, we were blissfully unaware of the problems which exist with unsafe trucks on our highways. The tragedy seemed incredible, a freak occurrence, but then we learned the facts. We have been learning, to our horror, of the greater scope of the problem since then. This accident was unnecessary and completely preventable, and knowing this makes the pain and the loss cut that much deeper.

Why did they have to die? The truth is, they died because the government and the trucking industry had not deemed it important enough to ensure that every truck that goes on our highways is completely safe. The truth is, it is expensive and time-consuming to implement all the safety measures and inspections which must be done to be sure. The truth is, it was the cost of doing business. We are here today to tell you that the cost is much too high.

The Ontario government has recently introduced new legislation dealing with impounding trucks with critical defects for 15 days and making flying truck tires an absolute liability offence, facing fines of up to \$50,000 if a wheel comes off. It should be mentioned that the operative words here are "up to," and we cannot be guaranteed that the maximum fines would ever in fact be imposed. However, this is certainly an initial step in having this issue looked at, brought about, we feel, by

intense media pressure, but we cannot allow it to stop there. This is only the beginning, and we are here to express just a few of the changes we would like to see.

The concept of impounding unsafe trucks is a good one. However, it does not go far enough. For three offences, the vehicle would be impounded for 60 days. We are now back to the cost of doing business. If a truck or trucking company has been found unsafe once, that is fearful in itself, but after three separate occasions within two years obviously the message is not being sent clearly enough. How many strikes do these trucks get before they are out?

The operators of these unsafe trucks should have their licences suspended or revoked, and these rigs should be taken off the road permanently. They are as dangerous, if not more so, and certainly as irresponsible, as someone getting behind the wheel after having too much to drink. If a driver or operator is simply made to pay fines, they are much more likely to take the risk. A fine is paid, the government is a little richer and it is back to business. However, if their livelihood itself was threatened, maybe better care would be taken.

We also believe that throughout the hearings and appeals which would certainly take place after such a penalty was imposed, these unsafe rigs should be removed from service until the matter has been settled. As you know, these cases can sometimes take years, and many lives would be at risk during that time.

The legislation must also include, aside from the penalty for flying truck tires, stipulations with respect to other flying trucks parts and other safety violations. Two years prior to Angela Worona's death, 25-year-old Ray Chambers was killed when part of a truck's braking system came loose and smashed into his car. This last February, incredibly enough, my sister Suzanne was involved in an accident where the drive shaft of a truck broke loose and struck six vehicles. Thankfully, no one was hurt, but this is a game of odds, and the odds are against us.

As a side commentary, it might be interesting to look into the concept of having at least a portion of the fines collected through these infractions put back into a truck safety and maintenance program, including proper training and education of all drivers driving the rigs and the mechanics who service and certify them.

This brings me to the important issue of driver training and the circle checks required to be performed on the vehicles they are driving. This is an issue which must be dealt with. It is imperative that every driver is properly educated and trained, not only in driving his truck, but in ascertaining potential problems with it. We do not expect the drivers to become mechanics; however, they should be trained enough, at the very least, to be aware that a problem exists with the truck so that they can immediately have it serviced. Would you not be able to tell if there was a problem with your car? You couldn't fix it perhaps, but you would certainly have it checked.

From my experience attending various truck blitzes, it is obvious to me that many drivers are unable to perform adequate circle checks. In fact, the circle checks required do not encompass enough items. This must be rectified. Every truck driver should be required to follow the

proper training and obtain certification as to his ability to perform his circle checks. As a matter of fact, as a sidebar of being at the truck blitzes, many drivers did not know what a circle check was.

Detailed logs of each circle check should be kept. Also, the circle checks should be more encompassing, include verification of tires, oil leakages and other obvious potential hazards. These qualifications should not be optional but a requirement under the law, and the necessary resources to ensure the proper training is given must be available.

We have been inundated with commentaries from truckers, trucking companies and trucking associations telling us that the majority of trucks are safe, and that the good drivers and safe companies want the bad rigs off the road as badly as we do. It is time for all of them to take a stand with us, rather than against us, in proving their words. Even after all the legislation possible is put into place, the burden of responsibility still remains on the companies and the drivers to ensure they follow the requirements. Let their conscience be their guide, rather than their profit margin.

Sadly, on June 13 an 18-year-old boy in Illinois was also killed by a flying truck tire. Where will it end? We are talking about people and lives here, and what could be more important? The buck must stop here.

We cannot possibly describe what the devastation of losing our mother and sister has done to us. It is something that cannot be explained or felt until you have been there. We will never be the same again. There's a gaping hole in our hearts and in our souls. We cry at the injustice and we ache with the realization that we will never see them again.

Next week is Mary's birthday. She would have been 41 years old. But she will not celebrate this year. Her three teenage children will never share another birthday with her and we will never hear her laugh or smile again. Our mother will never be there for counsel or for comfort. The holidays will never be joyful again. Our mother and sister are dead. We beg of you not to let another family experience this heartache before something concrete is done.

I spoke with Dwight in the hallway, and I did want to mention to you that, much to the family's dismay, we recently attended the adjournment of Mr Lauzon, who is a truck driver. After three adjournments, they finally set a pre-trial date. At this time we found out from the crown prosecutor that they couldn't do anything related to revoking this gentleman's licence or anything to do with that; that is strictly the jurisdiction of the MTO.

One of the absolutely most important things to the family at this point in time, aside from the issue of truck safety in general, is that this gentleman have his licence revoked. Not only did he have this accident, his licence was already under suspension. He owns his own truck and trailer. He actually had the audacity at this last hearing to bring his truck along, almost as if to say, "I am driving again." We were unsure of this fact until that point.

All the fines in the world would not make me feel better. There are lots of ways — his insurance and so on and so forth — that are going to hurt him financially. If

we had told him he couldn't drive again, particularly this gentleman, because of his past history, I think it probably would have hurt him more than anything. More than anything, it's not the family's intention to hurt him, but to ensure that he cannot operate a commercial vehicle again on our roads. In my eyes, so long as he does, he will always be a danger in one way or another to the community at large, whether it be his tires or his brakes or anything else on his rig. To our frustration, we have no power to do anything about that, none whatsoever.

The Acting Chair: Thank you very much. It's important for our committee to hear from you, although we can appreciate how painful it is for you to relive the experience.

We have some 10 minutes left for questioning, so we have a little better than three minutes per caucus. I don't have the Chair's list of where we ended at the last day, so unless somebody remembers who begins, I'll begin with the government caucus. Was it Gilles? Were you next up, Gilles, in the rotation?

Mr Gilles Bisson (Cochrane South): Do you want me to start?

As said by the Chair, thank you very much for coming. It's never easy to come out and speak about these things in public the way you do. It takes a lot of courage to do that and it takes a lot of will as well.

I want to go back to two things you said in your presentation. The first one is that — I'm not going to paraphrase, because I'm probably not going to get it right — you were talking about how you've gone to the blitzes and you've noticed in a lot of cases that a driver didn't even know what a circle check was. How often have you seen this?

Mrs Duggan: I can tell you on one particular occasion, which was probably the most disheartening, a gentleman pulled up in a truck that they actually had to tow from the QEW in Burlington. It was one of the last trucks in that day. I walked around the truck. I'm not a mechanic. I barely know enough about my car, except if it's making a noise I have to take it in. I walked around the truck with the MTO gentleman and noticed right away that something was hanging from the bottom of the truck that shouldn't have been there. It was obvious.

Mr Bisson: Is it the norm in your experience, when you've gone to the blitzes, that a lot of the drivers don't even know how to do a circle check?

1550

Mrs Duggan: The gentlemen from the MTO and the OPP who are there are very helpful and more than happy to help and instruct. He asked me if I wanted to talk to the driver. When the driver came out, I said to him: "Did you not see this? Did you not do your circle check?" He said, "What's a circle check?" I said, "Do you not go around your truck and check to see if you have oil in the tires, if the level's right? Do you not check your air brakes? Do you not check and make sure that there are no obstructions? Do you not at least do a primary check?" He said: "I get in the yard, they load my truck up. I get in, I drive. I'm a driver."

Mr Bisson: It goes back to the need to have good training and also to mandate it.

I don't have a lot of time but I have to ask you this question. There was a lot of fanfare by the minister bringing forward what was supposed to be comprehensive truck safety legislation that deals with some of the issues that you raised in your presentation — the issue of training drivers, the whole issue of everybody taking the responsibility in regard to truck safety. Do you think this bill goes far enough?

Mrs Duggan: No, absolutely not. In my mind, I feel that the bill itself is grandstanding on Mr Palladini's part. I think throwing out a figure of \$50,000 to try and put a Band-Aid on it is exactly what it's doing — putting a Band-Aid on it. Nobody's going to get a \$50,000 fine in reality. You can go through all the truck safety violations; nobody gets the maximum fine. Tires are not the only issue regarding truck safety.

The fact is, we have vehicles that are 10 times the weight, the force, the size that a car is travelling with us down the road. People are afraid to drive on the road. It amazes me that people are afraid to drive by trucks. Every truck accident that has happened, certainly with tires, has been on the opposite side of the highway, so you can't see that coming. Wouldn't you like to know that a guy driving down the highway on the other side had to stop before he started his route and make sure that his tires were correctly operating?

Mr John Hastings (Etobicoke-Rexdale): If up to \$50,000 is not a severe penalty for this kind of violation, what would you recommend then as to what the wording ought to be and how much it ought to be? Given that when this bill passes, which we hope will get through clause-by-clause by the end of tomorrow, it will be the highest amount that any judge in the Divisional Court of Ontario, upon evidence that would show for conviction — it would be highest in North America.

Mrs Duggan: The monetary amount is irrelevant really. I would like to see zero tolerance and have it not be a monetary issue. If you're driving for a big transport company, \$50,000 isn't anything — \$500,000 isn't anything. If you're running a fleet of truck, the monetary issue is irrelevant. If they take your company out of service for a month, that's relevant. Not only is it costing you your money, it's costing you your reputation, it's costing you your livelihood if you're a truck driver.

Mr Hastings: Would you advocate that such a measure be undertaken without a due process hearing?

Mrs Duggan: No, absolutely not. I firmly believe they have a right to defend themselves. This bill is probably never going to pass. If I was head of the Ontario Trucking Association, I would not let it pass. They can't possibly enforce. It's like having roadside sheriffs. Nobody in this country is guilty on the spot. You are innocent until proven guilty, and I'll grant them that. But in the meantime I don't think they should be allowed to drive.

Mr Hastings: How do you implement that? If you're going to have a due process hearing and yet remove their licence and their capacity to operate immediately, how do you balance the two off? Would it be similar to the 90-day administrative automatic suspension we have under other driving?

Mrs Duggan: Correct. If you're up on a drunk driving charge, you still can't drive for a period of time until you at least come to trial. It certainly would stop the big transport companies from waylaying things for an indefinite period of time.

Mr Hastings: Thank you for your comments under such stressful conditions.

Mr Dwight Duncan (Windsor-Walkerville): I just wanted to thank you for coming forward today. We have no questions other than to comment that this bill would not be here today had it not been for the courage of the families in stepping forward. We recognize that it falls short of what many people would like to see in terms of truck safety, and we will be bringing forward a number of amendments to the bill tomorrow which hopefully the government will give due consideration to.

We'll be bringing forward amendments also around — because I know this is one of the big issues for family members — regulations and ensuring that the regulatory changes that are contemplated in Target '97 do get implemented, that they don't get pushed back. We'll be bringing forward an amendment asking for a public committee to oversee the implementation of those regulatory changes so that there's more accountability than is there in the normal regulation process.

Again, understanding your tragedy and the work you've done, thank you for coming out. We'll try to keep vigilant in ensuring that not only the legislative but the regulatory changes happen.

The Acting Chair: Ms Sabourin, did you want to add something?

Ms Sabourin: I would just like to make a comment on Mr Bisson's question about Bill 138 being sufficient. As far as I'm concerned, it's the very tip of the iceberg. It's something, but it's far from being enough. There are so many questions that this doesn't cover. There's driver fatigue, braking systems, drive shafts, numerous other things. If it doesn't specify it in the law, you can pass by it. It wasn't specified under law that the gentleman whose tires flew off and killed my mother and sister had to, by law, check the oil in his tires, check for oil level. It's not under the law, it's not there. Because it's not there, he can't be prosecuted because he didn't do it.

Saying that, yes, absolute liability, as far as I'm concerned — this is my opinion — will never stand up in court. You can never say somebody is guilty without giving them a chance. It will never stand up in court, as far as I'm concerned. It doesn't matter how many appeals you do, it will not stand up.

But there's so much more. I really believed that for Bill 138 there was going to be a whole lot more of Target '97 in it. When Mr Palladini told me that this was going to be a more comprehensive law, I truly believed that he was going to put a lot more into it, not just a couple of things here and there and then merging. Believe me, I'm all for the bus safety and I'm all for the drunk driving thing, but to put it all together just to make it look big —

The Acting Chair: Thank you very much. As a number of people have indicated, this is the beginning. I trust that you'll continue to make your concerns known. Thank you for being with us today.

A question from Mr Bisson.

Mr Bisson: Just for the committee, I have an amendment that I want to put forward around that whole question of process, of ensuring that the minister does follow through on the recommendations of Target '97, where we do end up, his comprehensive truck policy legislation. I'll be moving that amendment either today or tomorrow.

The Acting Chair: I'm sorry, Mr Bisson, you're moving the amendment now?

Mr Bisson: I can move it now if you want it now.

The Acting Chair: I just didn't quite catch the last part of your statement. We will be doing clause-by-clause tomorrow. Amendments will be tabled and then considered in clause-by-clause in committee tomorrow.

Mr Bisson: I'll pull it out of my folder and I'll get it to you in a bit.

The Acting Chair: You wish to table your amendment now on this subject?

Mr Bisson: Do the next presenter and I'll table the amendment.

The Acting Chair: All right. Thank you very much.

1600

GUARDIAN INTERLOCK SYSTEMS

The Acting Chair: Mr Marples, thank you for joining our committee. You will have 20 minutes for the presentation and if there is time there will be questions from members of the committee.

Mr Ian Marples: Good afternoon, ladies and gentlemen. Thank you for giving me the opportunity to make this presentation. Please forgive me if I read most of it, but I was advised of this opportunity on rather short notice. I've thrown it together in rather a hurry and I want to make sure I touch on all the points.

My name is Ian Marples. I'm president of Guardian Interlock Systems Corp. Guardian Interlock Systems is an Ontario company based in the Toronto area which is recognized as a world leader in ignition interlock technology and program services. Guardian is the only company in this field with a track record in Canada. Our experience in Alberta dates back to the inception of that province's ignition interlock program in 1990. Guardian is currently also under consideration to act as exclusive interlock service provider under the Quebec program which is scheduled to commence on December 1 of this year.

I'll be speaking to the provisions of Bill 138 that relate to drinking and driving offences, with particular reference to those dealing with licence suspensions and vehicle impoundment. In doing so, it's my intention to touch on some basic realities and perhaps in the process dispel some myths.

One reality it's important to get a grasp of at the outset is that virtually everyone caught drinking and driving these days is a repeat offender. If there's any doubt about this, I'd ask you to consider that it is generally accepted that a person can drive in an alcohol-impaired condition somewhere between 200 and 2,000 times before they're going to be caught. On this basis, drawing a distinction between so-called first offenders and repeat offenders is really just perpetuating a myth.

In fact, the distinction between these groups is, at best, a blurred one. Today's impaired driving offenders are not just casual social drinkers who inadvertently made an error in judgment. This may have been true to some extent in the past. But a succession of public education and awareness campaigns over the last decade means this is no longer true today. People have got the message and responsible people have listened.

In the face of widespread awareness about the dangers of drinking and driving, impaired driving offenders today are, by definition, people who have demonstrated by their conduct that they are unwilling or unable to make responsible decisions about driving after drinking. By and large, they are problem drinkers, people who either can't control their consumption or are alcohol-dependent. These same people have also demonstrated by their conduct that they are not deterred by traditional legal sanctions: fines, licence suspension, incarceration, that sort of thing. Because of their alcohol problems and the integral part driving plays in the lives of most adults today, the great majority of impaired driving offenders are likely to continue driving after drinking.

If licence suspensions are unlikely to prevent convicted impaired drivers from offending again, does this mean that by increasing the length of the licence suspension periods we can at least keep them off the roads longer? Unfortunately, the answer is no. Although there is evidence of high compliance with short suspension periods, this is not the case with longer suspensions. In fact, there are indications that at some point licence suspensions tend to become counterproductive as more and more people not only drive under suspension, but fail to apply for reinstatement at the end of the suspension period and are thus permanently lost from the system of legal licensing and regulation. In short, it is unrealistic to expect that people who have proven themselves to be irresponsible about driving after drinking and undeterred by the threat of a lengthy licence suspension will be any more responsible about complying with a suspension once it's imposed or deterred by a longer suspension if caught again.

In support of increased licence suspensions, it has been argued that greater effectiveness and higher compliance can be achieved by impounding the vehicles of persons caught driving under suspension. However, the same reasons that help explain why the type of person caught drinking and driving these days is unlikely to be deterred by traditional legal sanctions from either repeating the offence or driving under suspension also suggest that vehicle impoundment will not produce the desired effect. Experience in other jurisdictions indicates that many suspended impaired drivers drive what are called "junkers," which can be easily replaced for a few hundred dollars.

At the root of the problem here are assumptions that place a fundamental reliance on the exercise of self-control by persons who could be characterized as lacking self-control in several essential respects. Reality here is that unless we are prepared to commit vast resources to enforcement, the proverbial police officer on every street corner, we cannot expect measures such as increased licence suspension periods and vehicle impoundment to

do anything more than steer greater numbers of drinking drivers away from governmental regulation altogether.

Against this backdrop, ignition interlocks represent a promising new initiative in the struggle against impaired driving. An ignition interlock is basically a sophisticated breath alcohol testing instrument which is installed in a vehicle in a way that links its operation to the functioning of the ignition, electrical and other vehicle systems. The interlock device includes electronic components that are designed to monitor and record data on critical functions and events, also to guard against tampering or circumvention attempts, and to ensure that users comply with supervision and reporting requirements imposed by administering authorities.

With ignition interlocks, the focus is on controlling behaviour in the interests of public safety. On the assumption that the type of offender we have been referring to will probably continue to try and drive after drinking in spite of the risks or, apparently, the consequences, interlocks are unlike licence suspensions in that they do not rely on self-control or responsible decision-making. Instead, interlocks represent a form of incapacitation which effectively prevents impaired driving by physically preventing the vehicle from being operated if the intended driver has had too much to drink.

From a traffic safety perspective, it makes sense to get impaired driving offenders on an interlock program at the earliest opportunity. This is not to suggest that interlocks should replace licence suspensions, or even that licence suspension periods should necessarily be reduced. As a sanction, licence suspensions serve to underline society's determination not to tolerate, and to protect itself from, people whose behaviour represents an unacceptable level of risk and all too often results in tragedy.

On the other hand, I would invite members of the committee to consider a staged approach to suspension and reinstatement much in the same way as legislators have in Alberta and a number of US states in relation to interlock use. Following a period of what's termed "hard suspension," no driving whatsoever, impaired driving offenders in these jurisdictions may become eligible for limited driving privileges under an interlock-restricted permit.

In many cases this allows the offender to get or keep a job, particularly in areas that aren't well served by public transit, and this in turn can have positive spillover effects in terms of family life, reduced welfare costs and what not, to mention a few examples. At the same time, because the interlock is a highly effective means of control — in other words, people can drink and they can drive, but they cannot combine the two — the public is protected from further incidents of impaired driving.

Under this scenario, the offender is kept on an interlock program for at least the remainder of the original suspension period, but possibly longer, depending on performance and compliance with program conditions. In fact, it appears that jurisdictions such as Alberta are moving in the direction of open-ended interlock programs, with an indefinite term under which offenders are required to keep the interlock in their vehicle until they can demonstrate to the satisfaction of administering

authorities that the device is no longer required in the interests of public safety.

Apart from control, two other potential benefits also point in the direction of early interlock use. The first is that interlocks are an effective screening tool. As an adjunct to assessment, reports of events that are monitored and recorded by the interlock device can be of great assistance in evaluating the subject's drinking problem and in determining what type of therapeutic intervention might be most appropriate.

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Secondly, interlock use over time, and particularly when combined with treatment, is showing promising results in terms of long-term behavioral change, helping impaired driving offenders to develop new, more responsible patterns of behaviour in relation to drinking and driving. This of course means a reduction in recidivism rates.

Considering that so-called first-time offenders these days are likely to be problem drinkers who have already driven in an alcohol-impaired condition hundreds of times, it is recommended that, at the very least, interlock use be made a condition of licence reinstatement for this group. Forget about the third-time offenders or even so-called second-time offenders. By and large, they're lost to the system; the length of licence suspension beforehand is far too long. But if you can catch them at an early stage, get them on an interlock program, put them in control, then hopefully, through early intervention, sufficient numbers will be retained within the system to allow the beneficial effects of interlock use to take hold and help make Ontario's roads the safest in the world.

The Acting Chair: Thank you very much, Mr Marples. We have about three minutes per caucus for questioning.

Mr Hastings: Mr Marples, could you elucidate for this committee what specific studies you have looked at that ascertain and back up your statement on page 4, that the interlock systems have a particularly long-term beneficial impact when a lot of the studies don't show that?

Mr Marples: Yes. The evidence is starting to mount. I think you have to bear in mind that if you strip away all the frills from an interlock, it's just a piece of hardware. It very much depends on how it's used. What it is is not quite as important.

There are over 30 states in the US that have interlock programs of one sort or another and there are about 20,000-odd devices in use throughout North America. Most of the US programs, unfortunately, are judicially based. In those programs the focus tends to be on the offender and the crime they've committed rather than on the problem they have. So you find that interlock use is subject to judicial discretion. The term of use tends to be fixed as a term of probation and basically it results in programs that aren't as effective as the ones that are coming along these days.

Alberta's program since 1990 has been administrative in nature, and since 1995 we've been conducting a study there in conjunction with the Traffic Injury Research Foundation of Canada and the Pacific Institute for Research and Evaluation in the States that actually involves introducing a therapeutic treatment component

into the program, and this is starting to produce some very interesting and promising results. Yes, I can point to studies that are beginning to show the kinds of long-term results I'm talking about. That's not to say that interlocks haven't been effective in the past, but the way in which they've been used hasn't really optimized the potential benefits.

One of the reports you do have is a preliminary report that has been produced by the Traffic Injury Research Foundation relating to an evaluation of the Alberta program. I think the short answer to your question is that's the one you can point to. That's starting to show some long-term benefits.

Mr Hastings: Are you aware of the Alberta study by Weinrath which indicates that in 10% of ignition interlock cases recorded, new impaired driving charges, compared to 25% of other high-risk drivers?

Mr Marples: Yes. That's quite a significant difference.

Mr Hastings: What's the problem with that study or with the statistics?

Mr Marples: Michael Weinrath was retained by the federal Department of Justice, the Alberta Driver Control Board, the Alberta Solicitor General's department and a few other agencies to do an independent study of the pilot program phase in Alberta, which ran from 1990 to late 1993. That phase was limited to repeat offenders, the very worst-case repeat offenders, and it used an inferior device. So you're really not getting the best results from it. Even so, the difference between 10% and 25% is very significant.

I might mention, incidentally, when it comes to statistics, Dr Douglas Beirness of the Traffic Injury Research Foundation is here today and he'll be addressing you this afternoon. He is one of the foremost experts in this field and I think he can probably better answer those questions than I can.

Mr Duncan: Thank you for your presentation. I asked some questions last week of another delegation about research on various studies, about the evaluation of the Alberta program. They all conclude fairly strongly that the program has worked and merits expansion. I think the three cases — we just received these literally a few minutes ago, so I haven't read them thoroughly, but looking at the conclusions, they conclude without doubt that these types of programs are good programs and aid in reducing recidivism.

Mr Marples: I think it's fair to say that the evidence is starting to mount. By the same token, ignition interlocks are not a panacea, but I truly believe they are an important piece of the puzzle that can help make a difference.

Mr Duncan: As someone who worked in the business of alcohol and drug recovery prior to being elected, one of the things people in that particular field will tell you is that among chronic alcoholics there is a tendency to be a little less accepting of authority and responsibility. Notionally, you can combine this type of program with some kind of therapeutic approach, and there is a range of therapeutic options. It would make sense that this would help with recidivism among those particularly chronic abusers.

Mr Marples: I think another thing to keep in mind is that interlock programs are always delivered by a private service provider who is not an authority figure, because they're not a representative of government. They're always done on a user-pay basis; the person who has committed the crime, who represents a threat, pays 100% of the costs associated with it. Speaking from experience — we operate not only in Alberta but in a number of states in the US — the vast majority of our clients come to us in a state of denial. The interlock does its job of controlling, but over time they come to change their behaviour patterns.

Mr Bisson: By its very nature, that's unfortunately part of the reality of the disease we call alcoholism. It is a question of denial.

Mr Marples: Exactly.

Mr Bisson: I have to ask you this question because I am not as current on the issue of how interlocks work as I should be. The person — either he or she — has been charged, an interlock has been installed, but it's the only vehicle in the family. The other person who hasn't been charged has to blow into the unit as well, has to be trained?

Mr Marples: Yes, absolutely.

Mr Bisson: There's no way around that?

Mr Marples: No, there is no way around it. It's made clear to the person who is required to have the interlock device in their vehicle, who is on the interlock-restricted permit, that he or she is responsible for all the results that are collected on what we call the data logger.

But in terms of its difficulty, I can attest from personal experience — I have one in my vehicle parked outside. I have it for demonstration purposes, I'm happy to say, not because I need it. But it really is a no-brainer. Once you are trained to use it, it tells you when it wants a test. You take the test and, as long as you haven't been drinking, use it and forget it. If you have been drinking, it becomes your worst nightmare.

Mr Bisson: I just wondered though from the perspective of the person, the family member, who is the second or the third driver on the vehicle, what kind of response there's been from them in the Alberta experience.

Mr Marples: In almost 100% of the cases, it's very, very supportive.

Mr Bisson: Because they knew it was a problem?

Mr Marples: Yes. We hear about victims of impaired drivers all the time. Typically, it's someone who's been injured or killed by an impaired driver, and their families. But the families of alcoholics and people who are alcohol-dependent are victims as well. When they are given a ray of hope, they get behind it 100% in almost every case.

The Acting Chair: Thank you very much, Mr Marples, for making not only a presentation, but a written presentation on short notice. We were very interested in the interlock system, so we value your being here.

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TIMMINS TRAILERS

The Acting Chair: Is Mr Larochelle from Timmins Trailers here? Welcome.

Mr Jackie Larochelle: Thank you very much. This is my first time doing something like this, so I might be a little bit nervous. I was invited here by Mr Bisson, I guess because I have some ideas or whatever. My experience is 25 years in the truck and trailer building and repair business. Altogether, we have 518 years of experience between our employees and the management and everything in that field.

Naturally, we're seeing a whole bunch of changes going on, accidents happening, and what we notice at our end is that it is going from one end to the other without looking in the middle whatsoever. Government or whatever is blaming the truckers; truckers are blaming the government; nothing is being done in between. We're stuck in between, where we have rules and laws coming down for us to follow to fabricate, to repair and stuff like that, some rules that are not clear, some rules that are not well known by the ministry themselves, some rules that are announced years in advance but not put into effect for a long, long time, confusing a whole bunch of people.

Naturally, we praise the fact the things are happening. We accept the fact that some of the truckers are negligent, but with the experience that I have working with truckers — and I call them truckers, I call them professionals; I've had the chance to work with them now for 25 years — they are probably among the most honest and hardworking people there are, but they have absolutely no power over what's happening right now.

The \$50,000 fine, the \$100,000 fine, that's fine; it will not solve the problem. Naturally, we say a guy should do a circle check, walk around his trailer or his truck. That may be fine and dandy, but most of the problems occur in a split second. Ten years ago we used to fabricate a 100% Canadian content trailer. Now it's down to maybe 20% to 30%, with most of the components coming from Mexico, Brazil, the States. As we all know, the country, the mountains, the roads are not the same. The quality has gone down tremendously. We are stuck in between again; 98.7% of our warranty is based on exported components. That is a major problem.

You have a defective bearing. They claim: "We have no problems. You may have one. Send us back the bearing at your cost, 10,000 miles away. We'll let you know in six months what went wrong." Then you get a letter that you've received many times before, with the date being changed but all the comments being the same — "water contamination, overloading" — always the same answers. Nothing is ever getting done.

Mr Bisson: Sounds like Bre-X.

Mr Larochelle: Yes. What we're seeing also, being stuck in between, is naturally there is a law that says you have to have your truck in for a safety once a year. Once a year, in my opinion, is not enough. What's happening also is there are too many self-safeties where companies that own their own trucks and trailers and have their own mechanics are doing their own safeties. Between you and me, we know what's happening with that.

Too many shops claim to be qualified in doing safeties. Ourselves, we repair trucks and trailers. We are specialists in trailers. We do safeties on trailers. We are so-so in trucks. We can do safeties on trucks. We decline to do it for one reason: We don't know enough. But on the other

side we have lots of competitors that are expert in trucks but are doing safeties on trailers, with no knowledge. I can bring you here 10 class-A mechanics with papers to certify trailers and not one of them will know what to do with the trailer. So the law is little bit iffy-iffy on that side, if you know what I mean.

One of the biggest problems that we're having, that we're seeing also with changes that are going on, is that the product that is built in Canada right now is probably the best it has ever been, but we are being swamped with product coming up from other countries with the cheapest possible quality of material to compete in prices. A trucker who earns his living making money, naturally, sees a product that is \$5,000 or \$6,000 cheaper and he goes for it. Two years down the line that piece of equipment is finished, but he's stuck with it because he has five-year payments, let's say. It is definitely a big problem. The quality of product coming in here is less than adequate.

You've seen our roads, you've travelled the northern roads, you come from Thunder Bay. It's not getting any better. That equipment is carrying 40 tonnes and 50 tonnes down the road at excessive speeds. So naturally things are not getting any better at all.

If you noticed, 10 years ago truckers were making money. The accidents weren't as often. The problem wasn't as big. Today they're making no money whatsoever. We're stuck in between because the good truckers that used to pay their bills in 30 days, no problem, are down to 60 days. The guys paying in 60 days are down to 120 days. There is no money left at the end user, which is the trucker.

We see a whole bunch of stuff going on where the guys are being robbed of tonnage or whatever. Let me give you a few comments that I've heard from presidents of major, major corporations. One especially — they must have about 1,000 brokers, and I don't like the word "broker," because it kind of means everything. The broker, you know, he's broke, he's having a hard time. The president of a major company told me, "If 15% of our brokers don't go bankrupt every year, we're paying them too much money." With that attitude, how do you expect a trucker to pay for all damages and everything if he's not making any money whatsoever? All he's asking for is a decent wage.

If I've got some friends who have invested \$50,000 in a corner store or \$150,000 in a Tim Horton's, they're called respectable businessmen. If a trucker has got \$200,000, a quarter of a million dollars, a half-million dollars invested in a truck, he's a trucker, and these days branded a criminal. It's not quite right.

Nobody gets in his truck in the morning and says, "I'm going to go out there and have an accident." Unfortunately it happens. I don't think it's the fines that will stop it whatsoever, but what is being done before that. We need a lot more training, as half of those truckers haven't got a clue what's going on. The laws are changing, but it's taking way too long. Then everybody hears about it, everybody has a different opinion. Is it on? Is it off? Is it on? Is it off? Nothing ever happens. By the time the law is passed, they've gotten so used to the idea of not listening to it, nothing gets done again. It drags on and on.

We're having the same problem because we're fabricating trailers. Do we put them on right away? Do we wait for the law to be passed? It takes forever. Then you fabricate a trailer and the law passes. It's not what the guy needed. It's kind of a dark cloud in between.

One thing that I noticed too: Back in the old days the guys, to make more money, were told to put more load on their trailers. The guys were hauling overloaded. The government stepped in, started putting fines, stopped the overloading. Now the truckers, to make money, have to drive fast, and we're noticing the damages on trailers and trucks. They're based on speed. That's a big no-no, naturally, because it does cause accidents. The bearings are having more failures. Tires are having more failures. The structure itself is having more failures.

The guys are told: "This takes six hours. We will base your rate on six hours." In a speeding pickup truck, it'll take you six hours. In a truck, it'll take you eight to eight and a half. So naturally there's no money left again, and what the guy has to do is go for time and speed and create accidents; no time for circle check, no time for this, no time for that. He's pressured all the time, with comments again being said: "You're not happy? Go haul elsewhere. You don't want to do this? No problem. There are 150 guys from another province that'll come and work in this district at any kind of money whatsoever." So the guys are, I say again, pressured for time, pressured for money. If you have a choice of feeding your family or changing the bearings in your wheels which may be iffy-iffy, which is your choice? I think we would all probably do the same thing.

What we're having a hard time with too, being a repair shop, is that the guy will come in, he knows he's got no money and he wants us to cut back or be careful, or whatever. We simply cannot do that. The guys know that, so they go home and they fix it themselves. One out of every 10 truckers has got the knowledge or the ability to really fix himself properly.

Back in the old days, there wasn't a problem. There was the money. The guy would come in and we'd fix him up. He'd pay his bill and he was gone back to work. Today, to tell you the truth, we hardly see them any more. They come in when they're stuck, when it's a major break or whatever, but all the little stuff — brakes, bearings, seals — which is what the major part of our problem is, is being done by themselves.

What's happening also is that too many shops are making safeties that are favours. We've refused some truckers for a safety because the trailer was simply finished, but two hours down the road he's on the road with a safety. He's now legal for a year and nothing has been done to the unit whatsoever. That's where I think it's nice to say we'll give a trucker a \$50,000 fine but we should have fines also for people doing bad safeties.

Some of the ministry employees, as we all know, are closing their eyes to some situations; they should be fined also. I've seen some scales where the guys were paid. I will not mention any name right now but there's one in particular where, if you have \$100 in your truck, your truck is safe. You just go look at the house this guy has got and the truck this guy has got. There's no way he can pay for it out of his ministry salary. But it's happening

all over the place. Those guys should be fined more than the trucker that was neglecting. It's a whole bunch of a combination.

I see the poor truckers being stuck with no power whatsoever. I watch them and I listen to them talk in truck stops and at the shop. They've got one thing in mind right now: a major strike, blockades. "Let's form unions." What's happening right now? It's going to be one against the other, with nothing getting done in between. As far as I'm concerned, we should all work together and start from the beginning and make everybody to blame and responsible for what's going down the line from one end to the other.

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I'm a fabricator. I want to be responsible for what I build. When I see my name going down the road on those trailers, I've got to be proud. As of yet, nothing has really happened with our product at all. We've had nobody killed and no major accidents or whatever, but it's going to happen some day. It may not be our fault; it's most likely will not be the trucker's fault. Like I say, some of the material that's put in those trailers or trucks now comes from abroad. The quality is simply not there any more, but this is all we have left to offer. Back in the old days, before free trade, we bought everything from Canada, and I mean 100% product from Canada. There weren't too many problems. Today, it's a big problem.

That's just a few of my ideas. I'll just look through here, if I can see a few more things. I stumbled from one place to the other, the lack of experience of a public speaker.

We're also seeing another trend happening which scares me to death. The big companies, the big trucking firms, they were making money, they existed, they were there, they got bigger and bigger. Major fines are coming out, major problems are coming out. What's their answer? It's not to fix their trucks or to fix their trailers, it's to sell them out to the drivers. "If you want a job tomorrow morning, you have to buy your truck and trailer. We'll pay you so much and you'll be responsible for your rig from now on."

The biggest companies that we see going through our repair shop — the single broker, whatever, is mostly in good shape. The big companies are being neglectful, they're very neglectful. Their answer to solve their problem is to sell out to the broker. It's going to be even more of a major problem because now you cannot go back to somebody who can afford to pay; you're going back to an end user who has no money. How can you draw blood from a rock? The guys are broke, let's put it this way. I've been dealing with them for years and years and the guys are broke. There's not too much more they can do now besides get upset and strike and get mad and fight back, that type of thing.

Naturally, we are putting a lot of emphasis on punishment. Why not put more money into some training, more into education and understanding? Take someone, train him properly, make him understand what the situation is. He'll be on your side. Give him a few details at a time. The media are terrible, naturally, right now. The guy hears a little bit here, a little bit there. The only thing he has to fight back is to get upset, because he has no power

whatsoever and all he can do is fight the system. "Why should I do this? Why should I be forced? Why am I being penalized once again?"

The trucking industry is probably the major industry there is, when you think of it. The guys are talking of a major strike that they're trying to organize right now with the trucking industry. Their first object is to stop all the fuel trucks. Within three days you can't drive your car because you've got no more gas. Within five days you can't get groceries; there's no more food in the stores. Don't look for your morning paper; it's not there any more. People don't realize how important the trucking business is.

I saw one guy the other day — major storm in Timmins, which we do get — was so upset because his morning paper was not there at 7 o'clock in the morning. I was there and I told him: "Hey, there's a storm out there. That truck can't drive from Toronto to Timmins with that big storm." "The God-damned truckers." Sorry for the expression, but the trucker is to blame once again. It's not his fault there's a big snowstorm out there, but he's pressured for time.

You have to be there at such-and-such a time. "If you have to, speed; if you have to, overload." The orders come from on top, not from the trucker. The trucker does not go into the bush and say, "Overload me to the max." The mill has control. The mill sees the wood coming in, the store sees the product coming in. The big guys can control what's happening right now, but who is being blamed? It's the young guy, the little guy.

That's basically it, I guess. I've seen lots of headaches, lots of nightmares. You guys have heard and seen some of the wheels fly off; I've seen a lot more than that. Unfortunately, some people are getting hurt and getting killed. That's a drastic thing. But you guys have only seen the edge of the iceberg, of the danger and the awful things that you see there. Remember, if the guys would be making money — we all have cars. Do we keep our cars 20 years? No. Because we can afford to buy a new one. After five, six years they're defective and we throw them out. You see trailers and trucks on the road that are 10, 12, 15, 20, 25 years old. When you've hauled 40 tonnes all your life, 25 years down the road let me describe what the trailer is: It's nothing but junk. But the guy does not have the money to buy.

Back in the old days, in two years, two and a half years, you'd have your truck paid for, your trailer paid for, you'd be trained, you'd create the economy, you'd keep on going. Today, five years is not enough to pay for a rig. After five years the guy still owes more than half of his rig. He cannot afford to buy a new one. He cannot afford to buy a better one. Hopefully he can afford to fix it, but trust me, after five, six, seven, eight years on the road, the product we have now is not enough.

If you want to have a perfect situation, a guy would need a safety every week. I've seen us make a safety on a trailer; half an hour down the road there's a broken spring. The guy hit a major pothole. That spring is now dangerous. The guy who did a circle check before he left does not know that. If you go down the road, one little rock will break your windshield, will break an oil cap. The oil drains; in 15 minutes the wheel is off. When the guy left just half an hour before, everything was okay.

Are we going too far in blaming and charging and everything and not looking at all the possible avenues? Myself, I blame it on the media's failure. Right now, when people want answers, let's give them a definite fast answer. Boom, boom, people are happy. These guys are getting charged and getting fined. Trust me, the guy who's getting charged can't afford to pay the fine and he won't.

What we're trying to do here is have a war on our hands type of thing. We're kind of stuck in between and we see both things happening. All we want to do is have perfect product on the road and all a trucker wants to do is have a good day's wage and go back home to his family. That's the main thing of everything.

I can tell you right now that some truckers are coming home after working 15, 16 hours a day, and have to fix their truck and trailer to make sure everything is back in order. Sometimes 16- and 17-hour days and he walks in the house with less than \$40 in his pocket. Driving a cab, you can make more than that in next to no time at all. He has an investment of a quarter of a million dollars on his hands. He's paying major insurance, major liabilities and he's putting his life in danger every day also because he's driving a big rig with 40 tonnes behind his back. If he gets into an accident, he can get crushed, he can get killed also. Big responsibilities, pressure. His bosses are not saying, "You're doing a good job"; his bosses are saying, "Give us more, give us more, give us more for less."

That's my opinion of what's happening right now with the situation of all the accidents and bad safeties and all that. Any questions?

The Chair (Ms Annamarie Castrilli): Thank you very much, Mr Larochelle. We have 30 seconds per caucus.

Mr Duncan: Thank you for your presentation. Do you support the bill?

Mr Larochelle: I support some of it, yes. I don't support the big \$50,000 fines because that will not solve the problem.

Mr Duncan: Do you think the bill should be passed in its present form?

Mr Larochelle: No, it's not complete.

Mr Duncan: It shouldn't be passed because it's not complete?

Mr Larochelle: That's right. If you pass it and it's not totally finished or totally cooked, or whatever, it doesn't perform well. It's only a little bit here and little bit there. Look at your laws for one, to start off with. We're Ontario. Ontario has safety and highway regulations, but yet if you go to Thunder Bay, for one example, they have their own little personal rules. If you come to Timmins, the ministry formed their own little rules. If you go to Chapleau, they formed their own little rules. Who knows the rules? A guy in Timmins will haul with seven winches, they'll let him go by. He gets to Chapleau, he gets a fine. Same province, same truck, same ministry. I think we should clear up our act before we start making all kinds of bills. Then again, I'm not the answer to everything.

Mr Bisson: You've covered a lot of ground here and I just want to thank you for coming. It's not easy for

people to come from Timmins down to Toronto to present to a standing committee. On behalf of the Legislature and the members here, thank you for coming down and presenting quite a bit of information and some insights into the problems in the industry.

Mrs Helen Johns (Huron): Thank you very much for coming today. I can only imagine how difficult it is to present the first time.

I just had a question. I have an auto parts manufacturer in my riding. They tell me that each year they have increased the safety or increased the product level and decreased the price. They're selling to GM and Ford for cars; they're selling manifolds, I believe. Is it not the same in the industry you represent, the trailer industry? Is there no standardization on the auto parts or is there no way you can ensure that the parts are safer or better each year? How come they're decreasing in their safety value or their life?

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Mr Larochelle: First of all, the trailer and the trucking industry in Canada has been going down for the last 10 years or so. We have lost a lot of manufacturers, we have lost a lot of what we could say on it. If you call major companies down south and you mention that you come from Canada, their answer is, "There is no trucking industry in Canada." One guy gave me the comment: "We sell more trucks in one city in the States than we do in all Canada. If you have a problem, call your mother." With answers like that, it's kind of tough to perform.

The companies that supply us with parts claim they have all the high standards, and I believe they think what they say is right. The guys come down to me and say, "This has been heavily tested in South Carolina." South Carolina is not Canada. I keep telling the guys: "If you want to test something really well, come to Canada and go to Longlac. Go to places like Chicoutimi, Quebec, where everything is being destroyed like there's no time at all, and then go back and say this has been heavily tested."

They come to Canada and say, "We've tested this with a 20-ton payload. In the States, 20 tons is legal; in Canada, it's 40 tons, 45 tons, 35 tons. The product that's on the market is a good product. Maybe our answer here is that we're carrying too much payload. Maybe the trucks are excessively fast here in Canada. If you go to the States, you'll notice that the trucks are 10 miles an hour slower than the cars. The answer to everything is hard to find.

They have changes of product. One supplier, for example, to save 0.3 of a penny on a part — I guess after a million parts it shows — changed screws on one part. There's no way in the world you can see the difference. It cost me \$100,000, it cost them millions, because three weeks or a month down the road, those little screws would fall apart — they were made somewhere in Peru or something like that — all the brakes on trailers would jam tight. If the guy was lucky, he wouldn't lose control and hit the ditch. Wheels would come off. All kinds of problems occurred because they saved 0.3 cents.

The Chair: Monsieur Larochelle, on behalf of the committee, let me thank you for coming such a long way to present your views. We truly appreciate it.

Mr Larochelle: Thanks for inviting me.

ADDICTION RESEARCH FOUNDATION

The Chair: I call upon the Addiction Research Foundation, Mr Robin Room, Dr Robert Mann and Dr Anja Koski-Jännes. Welcome and thank you very much for being with us this afternoon.

Dr Robin Room: Thank you very much. As you've just said, my name is Robin Room. I am chief scientist at the Addiction Research Foundation, which is a schedule 3 agency of the province of Ontario. With me today are Dr Robert Mann, a scientist with special expertise in the evaluation of drinking and driving countermeasures, and Dr Anja Koski-Jännes, who is a clinical scientist who, along with expertise in studying treatment in general, has looked at treatment in criminal justice environments.

The ARF's mission is to create and apply knowledge to prevent and reduce the harm associated with alcohol, tobacco and other drugs in Ontario communities. Traffic crashes and casualties are among the harms related to drug and, particularly, alcohol use. We are pleased that the problem of impaired driving is addressed in the Comprehensive Road Safety Act. This testimony concerns the part of that act that is relevant to our mission; that is, the provisions regarding licence suspension and assessment and remedial programs for drinking drivers testing at more than 0.08% blood alcohol level.

Drinking and driving remains an important source of death, injury and disability in our province, despite the progress that has been made through increased public awareness and previous legislative initiatives. In 1995, 316 of the fatalities on Ontario roads, that is, almost one third, involved drinking drivers. There are as many as 10 times as many serious injuries attributable to drinking and driving.

Besides the heartache which is involved, these deaths and injuries impose large costs on the Ontario health system. Drinking and driving also carries other substantial costs. An ARF study recently estimated that for 1992 the law enforcement costs in Ontario of impaired driving were \$119 million and the property losses from drinking and driving crashes were \$189 million.

The act strengthens the provisions for administrative licence suspension already in effect for drinking drivers testing over the legal limit. The effectiveness of such licence suspensions in reducing drinking and driving has been well established in the research literature. Licence suspension is a strategy well designed to deter people from drinking and driving, in accordance with general criminological principles: It is applied quickly and certainly, and to many drivers it will appear quite a severe threat in terms of disruption of daily life. It is also relatively effective in changing the behaviour of those who do nevertheless drink and drive and are caught. A majority of those suspended do not drive during the suspension period, and thus during that time cannot repeat their offence. A portion do drive, nevertheless, but they drive much less and much more carefully than before.

The act provides for an extension of the length of suspensions, including provision for lifetime suspension. As already noted, the effectiveness of licence suspensions for periods of months or a few years has been well

established, with a reduction of 30% to 50% in violations and collisions while the suspension is in place. However, there is little research on the relative effectiveness of different lengths of suspension, so that decisions on lengthy or lifetime suspension periods cannot be made at this time on the basis of proven effectiveness.

On the one hand, a lengthy or lifetime suspension removes at least some problematic drivers from the road for that much longer; on the other hand, it is possible that lengthier suspensions will result in more of those with suspended licences driving, although the act's impoundment provisions increase the deterrence against this. A lengthy or lifetime suspension may also reduce the incentive to go to treatment or remediation in a timely fashion. Presently, we are in the realm of speculation about the likely net effects of this feature of the act.

A major provision of the act from the point of view of drinking and driving countermeasures is the requirement of remedial programs prior to reinstatement of a suspended licence. In this area, Ontario has lagged behind a majority of the other provinces. Meanwhile, the proportion of those caught drinking and driving in Ontario who are repeat offenders has risen from 54% in 1988 to 69% in 1995. While this rise may be influenced by a number of factors, it certainly suggests that the current drinking and driving countermeasures are not fully deterring recidivism.

Until fairly recently, the lack of any general remediation program in Ontario could have been justified by the confusion in the research literature about the effectiveness of remedial programs. However, it is now clear that remedial programs do have a significant beneficial effect. A recent meta-analysis, drawing on over 200 evaluation studies, found reductions overall of drinking and driving recidivism and alcohol-related collisions of between 7% and 9%. There is reason to believe that carefully designed and implemented programs can improve on this overall baseline.

One study by ARF researchers — actually Bob Mann and colleagues — of an Ontario rehabilitation program for drinking and driving second offenders found a 30% reduction in mortality in a long-term follow-up. Most of this reduction was attributable to fewer casualty deaths, including traffic deaths.

At this point, the literature on drinking and driving remediation, as well as the broader literature on drinking problems interventions, supports an approach which from the start combines educational and therapeutic elements. A strictly didactic approach is less likely to be effective, as is an approach which relies entirely on eliciting shame.

The act provides for regulations to govern the remediation programs, and this provision will need to be used actively and wisely. The regulations will need to specify such matters as the minimum content of the programs, the maximum size of program groups and the competence of trainers and therapists. On the other hand, knowledge about which specific approaches and content work best for different classes of offenders is still relatively undeveloped, and there should be provision to encourage experimentation in conjunction with well-designed evaluations.

In the present state of knowledge, ARF would support an approach for all first offenders in terms of a series of group sessions combining alcohol and traffic safety education and basic therapeutic approaches. The latter might include sessions on enhancing motivation to cut down excessive drinking, teaching self-monitoring of drinking behaviour, and identifying high-risk situations and how to avoid or handle them. Referral information should be offered for those desiring further help with their drinking. For second offenders, we would favour an approach parallel to this but with greater emphasis on and depth in the therapeutic approaches, and smaller numbers in the program group.

The evaluation literature provides less guidance on how to proceed with respect to a required assessment and, if indicated, treatment prior to licence renewal. In different jurisdictions, a number of approaches have been used to distinguish who needs treatment and who does not. The level of blood alcohol involved in the offence has been used for this purpose, but it does not in fact effectively distinguish those with major drinking problems from those with minor. Disguised assessment instruments have also proved to be not very sensitive or specific in identifying need for treatment.

There are assessment instruments asking directly about drinking behaviour and problems which are effective in distinguishing fairly quickly and efficiently between those with substantial drinking problems and those with minimal problems. These instruments, however, work best when the person being assessed does not have obvious incentives to answer one way or another. If an assessment that treatment is needed will result in a substantial added burden before regaining a driver's licence, those assessed may attempt to answer so as to avoid that burden.

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In this aspect of the initiative in particular, there is a need for an experimental approach which compares different arrangements. In this regard, we particularly welcome section 41.1(11), which appears to provide specifically for such experimentation in the regulations, by allowing for differential provisions in different parts of the province. Of course, the payoff from such an approach comes only when the programs and arrangements are progressively improved through regulatory changes based on the results of the experimentation.

We recommend that this spirit of practical experimentation be applied more generally in the implementation of the act's drinking and driving provisions. Evaluations and ongoing monitoring of the effectiveness and cost-effectiveness of each element of the provisions should be built into the implementation. Contracts and subcontracts to provide educational, assessment or treatment services under the act should include requirements for regular reviews of performance, with provisions for changes in program as evaluation results point to approaches with greater effectiveness or cost-effectiveness.

As a provincial agency with a mandate to develop and apply knowledge in the field, the Addiction Research Foundation stands ready to assist the ministries involved with evaluation studies, in establishing monitoring systems, in setting standards and in providing training in connection with this initiative. From the perspective of

the research literature, the act is well conceived and timely. We look forward to assisting as appropriate in its implementation.

The Chair: Thank you, Dr Room. We have just about three minutes per caucus.

Mr Bisson: In your brief and in what you've just surmised you were talking about the need to put in place remedial programs across the province. You didn't speak to it in the report, but the one question that flows out of all of this is, are you suggesting that the province cough up the money for this?

Dr Room: No. The general provision in most jurisdictions is that the drinking drivers themselves pay for this.

Mr Bisson: Is it sufficient to cover the entire cost? I thought it wasn't. That was my impression.

Dr Room: Bob, do you want to answer?

Mr Bisson: Let me preface it, because not in all places across the province do we have sufficient infrastructure in communities to support such programs. That's why I'm asking the question.

Dr Robert Mann: We describe it further in a background document. My understanding is that the addictions treatment system across the province has upwards of 120 to 125 or more assessment and referral centres across the province and a similar number of outpatient centres, which presumably could be involved in such a program. There aren't at this point drinking and driving programs widely situated across the province, but I think if this bill is passed there will be sufficient need that these programs can be developed. I've seen some figures, some estimates, that a reasonable fee can be run in most areas of the province.

Mr Bisson: You're saying the money could come strictly from the person charged and it would be enough to run individual programs and expand into communities that don't have sufficient infrastructure in place now?

Dr Room: I think what is being contemplated with respect to first and second offenders' programs would be that the intervention would be in groups, not individual. If people took up the offer, as we would suggest it, to seek further treatment, that might be something that will lie outside their obligations in terms of their drinking and driving offence and that I think would be appropriately covered by the province under its current alcohol and drug treatment system.

Mrs Julia Munro (Durham-York): Thank you very much for making a presentation here today. I just wanted to ask you a question based on some ideas that were suggested by an earlier deputant, talking about the whole issue of the fact that those who are found to be driving-impaired are frequently people who have probably driven in that condition anywhere from 200 to 2,000 times before being arrested, and the argument that perhaps the use of a mechanical device such as the interlock would be beneficial. I'm just wondering what your position is in regard to that kind of use of interlock.

Dr Room: We would support provisions on an experimental basis, where you actually evaluate it as it goes along. An interlock might very well be an appropriate part of the regulations that would be provided under this act. We would support it as something that did not replace the other provisions that are contemplated under

the act but as something that would be supplementary to them. But we would want to view it experimentally, to actually evaluate and have a continuous monitoring of how well it was working.

Mr Duncan: The preponderance of different approaches to the problem of alcohol and drug abuse treatment: As I understood your presentation, you're saying we've got to be flexible to address them. What has the experience in Ontario been in the last couple of years in terms of the funding for these types of services and programs?

Dr Room: The general experience in Ontario has been of resources being reduced rather than increased. There is a rationalization project currently proceeding under the Ministry of Health in the alcohol and drug treatment system. It's certainly clear that one could not load a new load of drinking drivers on to that system without some source of extra funds.

Mr Duncan: With the funds that could potentially come from, say, someone who is convicted on a second or third offence, is it your experience or is it the experience in other jurisdictions that these programs can be self-funding over time?

Dr Room: It is the experience in other jurisdictions that they're self-funding over time. In some jurisdictions south of the border, that means quite a substantial fee.

Mr Duncan: Is it your experience, does the research show that there is any kind of correlation between income levels and repeat offenders? It would seem to me that somebody who is on their third or fourth conviction probably doesn't have a job, probably doesn't have the resources to access or pay for one of these programs. That's just my own anecdotal experience.

Dr Mann: Just to comment, there probably is evidence that multiple offenders might have an average income that's, say, less than a random sample of people. But keep in mind that if they want to get relicensed, there are relicensing fees, there are quite substantial insurance bills they have to face and so on. There's a larger financial picture that's not just what the person might have to pay as a fee for a remedial program.

The Chair: Thank you very much, Dr Room, to you and your colleagues for being here today and presenting the views of the Addiction Research Foundation. We truly appreciate it.

CANADIAN AUTOMOBILE ASSOCIATION ONTARIO

The Chair: We move now to the Canadian Automobile Association, Pauline Mitchell. Good afternoon. We're happy to have you with us.

Miss Pauline Mitchell: CAA Ontario is the federation of autonomous, not-for-profit automobile clubs in the province representing the motoring and travelling interests of nearly 1.7 million Ontario motorists and their families. We appreciate this opportunity to comment on Bill 138 on behalf of our members.

In February 1996 we participated in the pre-budget consultations, and at that time, on behalf of motorists, we asked that resources be available for sober driving programs and to deal with unsafe trucks. We are there-

fore very pleased at the progress that has been made on both issues in the past 17 months, including the introduction of this legislation.

As proposed, Bill 138 addresses many of the issues CAA members have identified to us as areas of concern. The fact that all parties are eager to move the legislation forward quickly is a measure of the public mood that essentially has no tolerance left for either unsafe trucks or impaired drivers.

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The Comprehensive Road Safety Act, 1997, introduces a number of measures aimed at drinking drivers, especially repeat offenders. CAA members have identified impaired driving as one of their greatest road safety concerns. In a recent CAA public policy survey, when asked to name the two issues most important for CAA from among a list, 30% of members selected drunk driving as the most important issue and another 20% selected it as the second most important issue.

CAA fully supported the introduction of administrative driver's license suspensions in Ontario and expected that harsher measures would follow once the dimensions of the impaired driving problem in Ontario were better known. For many years there was a decline in the number of impaired driving episodes but more recent statistics showed that impaired driving trips were again increasing. The fact that 10,000 drivers lost their licenses for 90 days in the first six months of ADLS in Ontario clearly demonstrates that impaired driving remains a serious threat to road safety and more aggressive measures to deal with this issue are appropriate.

Before commenting specifically on this legislation, it should be acknowledged that the problem of impaired drivers will not be solved simply by legislation. Sober driving programs like RIDE are an essential element in the effort to remove impaired drivers from our roads. Cuts in transfer payments to municipalities have increased the possibility that RIDE programs will be scaled back or eliminated. CAA Ontario recommends that sufficient provincial funds be allocated to police services throughout the province specifically for the continuation of RIDE programs.

CAA's position on impaired driving is formalized in the 1996-97 statement of policy. CAA policy 6.3 states:

"The operation of a motor vehicle while the driver is impaired by the use of alcohol or a drug is condemned. Strong measures should be taken to protect the public against an impaired driver."

In general terms, CAA members have told us they expect different treatment for repeat offenders than for first-time offenders. In a 1993 CAA public policy survey only 1% indicated repeat offenders should be treated the same way as first-time offenders for driving while impaired. When asked, "Which of the following statements best represents how you feel about drivers who have been convicted more than once while impaired by alcohol?" 17% indicated repeat offenders should be required to attend an alcohol rehabilitation program, 24% indicated licenses should be permanently revoked from repeat offenders, but only after several convictions, and 58% indicated license suspensions should become longer and fines higher with each subsequent conviction.

The legislation before us encompasses all of the elements the public favours. The progressively harsher penalties for impaired driving should provide ample incentive for impaired drivers to change their behaviour after, if not before, a first offence. It is critical, however, that the public be made aware of the legislative changes through an ongoing public education program.

The suspension periods outlined in the legislation satisfy CAA's concerns that the penalties take into account the seriousness of the offence, with fines becoming progressively higher and license suspensions becoming progressively longer with each subsequent conviction.

While there is no sympathy at all for impaired drivers, given the consequences of conviction it is essential that the court process not be subject to undue delay. For the protection of the innocent as well as the punishment of the guilty, it is essential that the courts are able to move cases along in a timely fashion.

Under this legislation Ontario would become the ninth province to introduce a remedial measures program. In principle, CAA Ontario supports remedial measures programs. In the CAA statement of policy, 1996-97, recommendation 6.3.5 states:

"Provincial governments and agencies involved in impaired driver programs should establish a system whereby all persons convicted of alcohol-impaired driving receive a psychological interview to determine if they have an alcohol dependency. Those persons who are found to have a dependency should receive alcohol rehabilitation in addition to their criminal sentence, and those persons found not to have an alcohol dependency should attend an alcohol awareness class in addition to their criminal sentence."

At this point, remedial programs and service providers need to be developed, and we hope there will be public consultation before regulations are introduced. We would also be very happy to participate in those discussions.

As a preface to our comments concerning impounding vehicles driven by people caught driving under suspension for criminal convictions, CAA believes strongly that mobility is the cornerstone of modern society and that the private automobile is the principal means of mobility for most Canadians. A Transport Canada study showed that many people would find it hard to earn a living with no automobile. Some 75% of commuters rely on their automobiles to get to work and 57% have no other option.

Having said that, we accept the spirit of the legislation, which is to discourage people who are suspended from driving after Criminal Code convictions from getting behind the wheel. People who drive while under suspension for Criminal Code convictions are a public menace and should be dealt with harshly. In CAA's 1995 public policy survey, in response to a question about which penalties were appropriate for someone driving under suspension, 68.6% felt impounding a vehicle belonging to the individual was appropriate. It should be noted, however, that acceptance drops to 30.4% for those who felt it was appropriate to impound the vehicle if it belonged to someone else.

We recognize that impounding vehicles can and will pose serious hardship for some families. We believe there

should be a legislated guarantee that the appeals process will occur swiftly and that there will be a fair determination of what constitutes "exceptional hardship." When the criteria are established to define "exceptional hardship," we hope they will be flexible enough to consider both individual and family circumstances. To cite a few scenarios, in our view it would be an exceptional hardship, for example, if the impounded vehicle is required by the sole breadwinner for earning a living or if the vehicle is required to transport someone to and from medical treatment programs.

We also hope that the exception for stolen vehicles will extend to vehicles taken without consent in those cases where the owner notifies police that a suspended driver is driving. While we agree that vehicle owners have a responsibility not to loan or rent a vehicle to a suspended driver, the penalty for the vehicle owner, if other than the suspended driver, should not be greater than the penalty imposed on the suspended driver.

On the trucking issue: We are very pleased that under this legislation Ontario would be the first jurisdiction to introduce truck impoundment for critical safety defects. It is a significant step. Let's not forget that Ontario highways carry 40% of the truck travel in Canada and that critical safety defects are found by inspectors on a regular basis. The number of out-of-service vehicles has shown a recent improvement but we still have far too many unsafe trucks on the road.

During the annual 72-hour, highly publicized random inspections conducted as part of Roadcheck '95, 42% of trucks inspected in Ontario were taken out of service for safety defects. The picture was even worse during unpublishicized targeted safety blitzes, when the out-of-service rates soared past 50% and often showed that as many as three out of four trucks inspected in those targeted blitzes were unsafe.

Unfortunately, too many trucking firms see fines as the cost of doing business. CAA has urged not just Ontario but all Canadian jurisdictions to raise penalties high enough to make regular maintenance the only way of doing business. Ontario has shown leadership in this regard and there have been several changes in the last two years: Inspections have increased and so have fines. Still, a significant minority within the trucking industry has failed to understand that there is no public tolerance for unsafe trucks. During Roadcheck '96, there was an out-of-service rate of 39%.

At the very time this legislation was introduced, Roadcheck '97 was under way and, despite every effort made to date to reduce the number of unsafe trucks on the road, a third of the more than 3,000 trucks inspected were taken out of service for safety defects. Not all were critical safety defects, but the fact is that the plates were removed from 124 trucks or trailers during this three-day period for severe safety defects. That's 124 trucks that moments before had been travelling some of Canada's busiest highways.

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CAA staff were present as observers at the Oakville inspection station, where we saw a trailer with absolutely no functioning brakes. Fortunately for all of us, it was pulled in for an inspection and the defects were found.

Considering the high volume of truck traffic on Ontario roads and the persistently high number of unsafe trucks and trailers identified in both random and targeted inspections, roadside impoundment was the logical next step to combat the problem. Trucks with critical safety defects should not be on the road regardless of where they are from. If it takes impoundment to get them off the road, that is the price that will have to be paid. Hopefully, the prospect of impoundment and the costs associated with impoundment will be enough to convince even the most reluctant to commit to regular maintenance programs.

Mechanical fitness of trucks is not the only issue concerning safer trucking but it is a major issue. We respect the effort that was put into the Target '97 recommendations and look forward to the early implementation of many of those recommendations aimed at achieving safer roads for all road users. In other words, impounding trucks with critical safety defects is not the only strategy needed to improve road safety but it is certainly an important development.

The introduction of absolute liability legislation for wheel separations in our view is overdue. Ontario has already seen four deaths which resulted from wheel separations. Other incidents could have had the same tragic outcome. By the time the minister talked of introducing this legislation, wheel separations were no longer a rare event in this province and it was clear that additional measures were needed to reverse the trend.

Perhaps it is coincidence, but reports of wheel separations did diminish once the absolute liability legislation was announced last winter. More likely, greater attention has been paid to wheel maintenance once it was clear that if a wheel detaches from a truck, that's all an enforcement officer needs to secure a conviction. The fact that the courts will determine the amount of the fine to be levied and will consider all factors surrounding the offence as part of sentencing guarantees that there is still an opportunity to explain the circumstances of the wheel separation, including the severity and cause of the incident, which will affect the fine the court may impose.

CAA is pleased that the legislation affects all commercial vehicles that weigh more than 4,500 kilograms, including buses designed to carry more than 10 passengers.

As a final comment on this legislation, the doubling of fines for passing a stopped school bus with signals flashing reflects the seriousness of that offence. CAA has a very long association with the school safety patrol program and a dedication to the safety of children. The legislation itself will be made far more effective if accompanied by a comprehensive public education and awareness campaign, and we would be pleased to participate in that process.

The Chair: We have just under two minutes per caucus.

Mr Hastings: Miss Mitchell, last Thursday in private members' hour, Mr Froese from St Catharines-Brock introduced a private member's bill which would require all school buses in the province to stop at barred or unbarred railway crossings. Do you favour that proposition? We're probably going to make it an amendment.

Miss Mitchell: I wasn't aware of that, sir.

Mr Hastings: It passed in the House.

Miss Mitchell: It sounds like a darn good idea.

Mr Hastings: My second question relates to the Liberal critic's proposition that while the government has indicated that it will implement nearly 72 of the 79 Target '97 recommendations, they are proposing an additional oversight committee of some sort for implementation to ensure that this government is accountable on this whole facet of road safety. Do you believe such a proposition is essential or necessary at all?

Miss Mitchell: I think it's a very appropriate way to proceed, just for the public confidence that things are progressing as they should be in that regard. CAA has looked at all of the Target '97 recommendations, many of which we feel are very good recommendations and some of which we have very serious concerns about. I think it's too soon to implement a lot of them. There's a lot of work and a lot of development still to be done, but I think the idea of an overseeing group is probably a very fine idea.

Mr Hastings: Did the CAA previously support such a strategy for implementation with other governments on road bills and safety concerns?

Miss Mitchell: I'm sorry?

Mr Hastings: In the past, when governments introduced road safety bills or whatever they were called, amendments to the Highway Traffic Act, did the CAA itself have on record this specific type of strategy we have now alluded to?

Miss Mitchell: I think a lot of the stuff we have referred to here today has been mentioned by CAA at several public hearings on a number of different issues.

Mr Hastings: Including a specific oversight group?

Miss Mitchell: Not a specific oversight group.

Mr Duncan: Thank you for your presentation. I'm pleased to note your support for our amendment.

The only thing I wanted to ask you about — because your presentation is very clear and very supportive of the bill and the thrust of the legislation — is the notion of adequacy of funding for police services and RIDE programs. Has the CAA documented evidence that there have been cutbacks that affect the adequacy of these programs, or cutbacks that are planned that could affect the adequacy of these programs?

Miss Mitchell: CAA has been a prominent supporter of RIDE programs in many jurisdictions. Very recently CAA donated the use of a van to be used in RIDE programs in one jurisdiction that just didn't have a RIDE van. I would take it that's an indication there was no money available in that jurisdiction for a RIDE van unless a sponsor was found. While we agree it's a nice idea to have public-private partnerships, I think there must be a commitment made that enforcement is very visible and ongoing.

Mr Bisson: You've already answered the first part of my question. Part of the problem we have here is that there has been some very good work done on the part of a number of people in regard to Target '97. I don't think it encompasses everything, but certainly a lot of the major issues around trying to make our highways safer by increasing truck safety were addressed in Target '97.

Part of what I as the NDP critic feel is that the government only has a certain amount of time to pass legislation. This minister has a window, and his window at this point seems to be this spring. Whatever he's going to do when it comes to truck safety has got to be done now, because my guess is, knowing how government House leaders operate, he ain't going to get another window. This government has other bills to pass and in the greater scheme of things truck safety is not going to be on top of the pile.

That's why, as the NDP critic, I've been asking for a process which keeps the government accountable and keeps the feet of the minister to the fire, making sure that we move on Target '97 and it doesn't become yet another document high up on a shelf in some government ministry office somewhere just collecting dust. That's why we're asking for the oversight process.

You were part of the Target '97 task force. Were you on the policy or the subcommittees?

Miss Mitchell: No, we were not part of the original Target '97 task force. However, we have been asked to participate in any further —

Mr Bisson: I thought you were one of the groups that were originally contacted.

Miss Mitchell: No, we were not. We have been asked since that time to participate in some of the further developments.

Mr Bisson: Part of the feeling in this process is on the whole question of accountability. It seems to me if we're going to move on truck safety, there need to be more people at the table than just the OTA or just truckers. Although they are a very important part of the problem, they are not the only people who need to be at the table. We need to have the public. The question I ask is, do you think there need to be more people at the table representing the public other than just the CAA? Are there others out there who need to be at the table? You speak to one group of the public. It seems to me there are others out there who need a voice.

Miss Mitchell: I'm trying to give some quick thought as to who else would be appropriate. I think the group could benefit maybe from some professional educators, since there's a very strong emphasis on developing training programs and things of that nature. It might be appropriate to seek some guidance in that regard.

The Chair: Thank you very much, Miss Mitchell, for appearing before us today and sharing the views of your organization.

Mr Bisson: Chair, just before the next presenter starts, I asked a question, I think it was last Tuesday, that the parliamentary assistant provide me with a list of which parts of Target '97 need to be addressed by way of regulation and which ones need to go in legislation. I don't think we received anything. I'm wondering if the parliamentary assistant can tell me when I'm going to get that.

Mr Hastings: We're still dealing with it. We should have it for you by noon tomorrow, Mr Bisson.

Mr Bisson: It makes it difficult to deal with our amendments. I was hoping we were going to get that by Friday.

Mr Hastings: Noon will be our absolute last time. I'll see if we can get it to you earlier.

Mr Bisson: Anything at all, because it's pretty difficult to deal with amendments without that.

Mrs Margaret Marland (Mississauga South): Madam Chair, I'm wondering if the clerk could dim these lights just a little bit, because I think it's the ceiling lights that make this room so hot.

The Chair: I hadn't appreciated the room was hot, but if that's the will of the committee, by all means.

Mr Bisson: Trying to do things in the dark again, eh, Margaret?

The Chair: The Chair cannot comment.

TRAFFIC INJURY RESEARCH FOUNDATION OF CANADA

The Chair: Dr Douglas J. Beirness, the Traffic Injury Research Foundation of Canada. Welcome to our committee. We're looking forward to your presentation.

Dr Douglas Beirness: It's indeed a pleasure to be here this afternoon. For those of you who don't know anything about the Traffic Injury Research Foundation, let me just briefly tell you that we're an independent road safety organization which was originally established by the Royal College of Physicians and Surgeons way back in 1962. We obtained our charter in 1963 and have been a registered charity ever since.

What I'd like to do today is restrict my comments to the impaired driving initiatives in the proposed legislation. As most of you can appreciate, over the past 15 years or so we've witnessed some unprecedented reductions in the magnitude of the alcohol crash problem, not only here in Ontario, but across Canada, in the United States and in every western industrialized nation throughout the world.

While these reductions are significant and noteworthy, what we have left is a problem of substantial magnitude. In a series of reports by my colleagues and myself at the Traffic Injury Research Foundation, we have identified and determined that to a great extent this problem is the result of a small but highly deviant and high-risk subgroup of drinking and driving offenders who are largely responsible for the problems we see on the roads today. You'll hear them referred to by a variety of labels: "repeat offenders," "persistent drinking drivers," "high BAC drivers." The term we have preferred over the years has been "hard core offenders."

This group we define as those who drive repeatedly after drinking, often with high blood alcohol levels; I mean in excess of 150 milligrams. Their drinking and driving behaviour is persistent and chronic. They appear to be resistant to many of the persuasive appeals that have been the hallmark of drinking and driving countermeasures over the past several years. They are not deterred by criminal sanctions. They drink frequently and often to excess. Many of them also have previous DWI convictions.

I'm sure that over the last few days you've heard lots of statistics thrown about. I also can't make a presentation without adding a few statistics of my own. What I want to show by these statistics is that this is a very

small but deviant and high-risk subset of all drinking drivers on the road who are responsible for a substantial proportion of the drinking and driving problems that remain.

For example, roadside surveys have determined that less than 1% of the drivers on the road on weekend nights have a blood alcohol level in excess of 150 milligrams. Drivers with blood alcohol levels of this magnitude account for 65% of all drinking and driving fatalities in this country. Among drinking drivers responsible for alcohol-related fatal crashes, one third have a previous conviction for an impaired driving offence. A number that has been heard here this afternoon: 69% of drivers suspended for a drinking and driving offence in Ontario have a previous impaired driving conviction on the record.

The question we're faced with now is, what can we do about this high-risk group of offenders? The first thing I want to talk about is licence suspension. There have been several studies over the years in the drinking and driving field that show this is the one measure that has an impact on drinking drivers. It's appropriate and it's effective. As Dr Room alluded to earlier, however, the studies don't tell us what length of suspension is most appropriate. We know short-term suspensions work. We do not know if longer suspensions are more effective.

My concern is not with suspensions per se; it's with reinstatement. I think the bill we have before us here today addresses reinstatement. It may not be a popular thing to say, but we want drinking drivers to become relicensed. When they're licensed we have some control over them. The last thing we want, which is a problem throughout this country, is for drinking drivers to give up on the licensing system. If they're out there driving without a licence, we have absolutely no control over them, we know nothing about their behaviour. We want them within the system where we can exercise some controls over them.

We know driving is important to the people of Ontario. It's also important that we only allow those people who meet certain standards to have the privilege of driving. Under our current system, when we take the licence away from a bad driver, we wait a period of time and give that licence back to the very same bad driver. We do nothing in addition to help that person become a better driver or to cure the problems that are creating that bad driving in the first place.

The provisions in the bill for mandatory assessment and rehabilitation I applaud, and I urge you to follow the advice of the experts in the area — they presented here earlier today — Dr Room and his colleagues at the Addiction Research Foundation, in terms of setting up those programs and ensuring they're effective. Studies around the world have shown that rehabilitation for drinking drivers does indeed have positive effects.

Where I want to address most of my comments this afternoon is on the issue of alcohol ignition interlocks. I know you've heard about alcohol ignition interlocks in this committee before, but what I want to do is restrict my comments to essentially two issues: (1) their effectiveness and (2) their benefits.

Our organization has been involved with the alcohol ignition interlock program in Alberta for about three years now. We've worked closely with the government and with the interlock installer in Alberta, doing a study that involves the evaluation of that program as well as an evaluation of implementing a treatment component within the ignition interlock program.

Let's look at the impact of the effectiveness of alcohol ignition interlocks. The bottom line is that they work. Studies in California, North Carolina, Ohio, Oregon, recently Maryland and now Alberta show that alcohol ignition interlocks reduce recidivism by between 28% and 65% among persons who have had the interlock installed. The recent work we've done in Alberta shows some preliminary results that are indeed most encouraging. The results of this study show that interlocks reduced repeat offences among DWI offenders who had the interlock installed by 72%.

There are a couple of studies you may have heard about that show that the recidivism rate increases after the interlock is indeed taken out of the vehicle. There are only two of those studies; there is no other study that shows that. The work we're doing in Alberta does not show that effect so far. There is no evidence from the Maryland study that this is in fact the case. However, they have only a one-year follow-up period. A longer follow-up period is necessary to determine the validity of that finding.

The fact that the recidivism rate actually increases after the interlock is taken out of the vehicle should not be surprising, but it should not detract from the importance of having the interlock put in in the first place. The results certainly show that offenders who have had an interlock put in their vehicle do not reoffend as often as people who have not gone through the program.

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Many of the studies that have evaluated the effects of ignition interlocks have been criticized for their design flaws. These evaluation studies, however, are done under real-world conditions with real ignition interlock programs. It is in many cases not possible to conduct a fully controlled experimental program that will get at the true effect of an interlock. What these studies do show is that under real-world conditions, under the constraints of the judicial and the licensing systems, interlocks do have a beneficial effect.

The other aspect of the evaluation of interlock programs concerns the process involved; that is, do they do what they're supposed to do? Do they prevent impaired individuals from driving and allow driving when the person is not impaired? Yes, they do. Studies that have looked at that aspect of it and the studies we're doing in Alberta certainly show that is the case. The device that's being used in Alberta is highly specific. It's a very sophisticated device. It prevents people from driving who blow over 0.04. The vehicle simply will not start. It is difficult to circumvent; that is, you can't go around the device in any way. It does what it's supposed to do. It also allows people to drive if they have not been drinking. The false positive rate is very, very low, especially with the new device. The devices are reliable, they're

accurate and, as I mentioned, they're exceptionally difficult to circumvent.

Let me tell you about a couple of the key features of interlocks that we found to be particularly important. These are built-in systems that go with the interlock device that ensure its reliability, that ensure it can't be circumvented. The first is a data logger. The data logger records every event that occurs with the ignition of that vehicle. It records the blood alcohol level, the time, the date, all kinds of information that's important for monitoring that offender and determining what he or she has done with that vehicle over a period of time.

It also includes a rolling retest. This is a system whereby the person must continually, on a random interval, blow into the device to make sure that their blood alcohol level does not rise while they're driving. This ensures that they're not sitting there with a bottle in the front seat of the car drinking as they're going down the road. It also ensures that they can't leave the car idling in front of a bar, go in and have a few and get back in. These two systems I believe are critical to the success of any interlock program.

The benefits of the interlock system? The bottom line is that they provide the general public, you and me and other road users, with some assurance that a DWI offender, when he is relicensed, will drive legally, with proper insurance and only when sober. An interlock can provide a transition between that full licence suspension and full licence reinstatement. It allows a period of time over which we can monitor the offender to see what's going on, to determine whether or not he or she is ready for a real licence again, a full, unrestricted licence.

The interlock program that is set up in Alberta and is similar in other jurisdictions that have interlock programs is that the offender must bring the vehicle in on a routine, regular basis for monitoring. This allows us to have a chat with the individual to determine what they're doing. It allows us to determine what they're doing with the vehicle, to see if they are indeed complying with the program. In the Alberta program, if you're not complying with the program and it shows on your record, you can be extended or revoked from the program.

Another advantage of the alcohol ignition interlock system is that it can serve as an adjunct to rehabilitation or treatment. One of the things that people in the alcohol field know about people who are undergoing treatment for alcohol dependence is that relapses are very common. The last thing in the world we want is for a relapse to result in a tragedy on the highway. The interlock can help to prevent such things.

Are there concerns about interlocks? Sure there are. There's no guarantee or assurance that the offender will not drive another vehicle that does not have an interlock in it, but neither does licence suspension. There's very little we can do about that, other than chain the person to the bars in a jail cell. We have no assurance of that.

Another concern is that it costs money. Yes, indeed, it does. The offender pays for it. It costs approximately \$100 a month to have this thing in your car. It sounds like a lot of money, about one drink a day. We're talking about people who would normally consume a whole lot more alcohol than that. One drink a day they can afford.

If there's one thing that I would like to recommend to this committee, it is that the regulations regarding the conditions under which a driver's licence can be reinstated be written to specifically allow the installation of an alcohol ignition interlock device as a condition of reinstatement not only for third-time offenders but for first and second offenders as well. At the very least, such devices should be ordered for all third-time offenders, all second-time offenders where there is evidence from the assessment of an alcohol problem and all first-time offenders where there's evidence of an alcohol problem and/or a blood alcohol level at the time of arrest over 150.

We've learned a great deal about drinking drivers over the last several years. They're not all the same. No one thing is going to work for everyone. They're a very diverse group. There are very few blanket statements we can make about this group of offenders. They're not all alcoholics. They don't all need treatment. They're not all young. They're not all male. There are a lot of things that they're all not. The one thing I can say, though, is that every repeat offender has one thing in common: They've all been there before.

We had a chance to deal with them the first time we saw them in the criminal justice system, and quite frankly we blew it. We didn't do the things to that person that we should have done to ensure they did not commit the offence again. Some of the provisions in this bill, particularly things like assessment, rehabilitation and the addition of alcohol ignition interlocks, I think will go a long way to reducing the chances that such people will come back into the system over and over again. Thank you.

The Chair: Thank you, Dr Beirness. We have just about a minute per caucus. The official opposition.

Mr Duncan: No questions. Thank you very much.

Mr Bisson: Jeez, I have two questions. I've got to pick one. Not enough time to go through it; that's part of the problem here. What have we learned in Alberta in regard to those people who have been with the interlock system? How many of them actually go back and drink and drive?

Dr Beirness: The recidivism rate in Alberta over a three-year period following the removal of the interlock is 9.3%. That compares with 34% of other comparable offenders over the same period of time.

Mr Bisson: You've got to wonder what's in somebody's mind to get behind the wheel when you know you're going to be registered in the interlock system as being drinking and driving, why a person would even do that.

Dr Beirness: A couple of things here: First of all, these results are primarily after the interlock is removed from the vehicle, so they don't have that system in there any more.

Mr Bisson: I'm talking while on the interlock. What have they learned through the monitoring?

Dr Beirness: We've learned a lot of things. The most common thing we find is that people come in and say: "This thing doesn't work. I got up Saturday morning and I blew an 88 or 120. It can't be working properly." They don't understand that they drank so much the night before the alcohol's still in their system. That's why it won't allow them to drive. That piece of information alone tells

us a great deal about the drinking habits of that individual and it's very useful in the treatment context we have in the program in Alberta.

Mrs Marland: Dr Beirness, as the person who brought in the private member's bill three years ago, obviously I'm very happy to hear your comments today, because I wanted people to lose their licence on the first conviction. We're down to the third time and you're out now, but you're out with this ignition interlock system.

I've had that demonstrated to me in my office, and I have two questions. One is, how long has your Traffic Injury Research Foundation been established? Second, have you had any discussion with the automotive industry as to whether they are even considering this kind of a device as part of the design in new cars? Would it be inexpensive to have it there if it was needed by adult drivers?

Dr Beirness: Your first question: Traffic Injury Research Foundation has been around for over 30 years.

Mrs Marland: I didn't hear from anybody in the last three years.

Dr Beirness: Oh, we're there.

Your second question: Yes, we have talked to the automotive industry. In that context, my most recent contact is with a fellow with Renault in France. They're planning on offering an interlock as an option on their vehicles in the 1999 model year, I believe.

Mrs Marland: They are? Great.

The Chair: Thank you very much, Dr Beirness, for being here and for putting your case to the committee. We appreciate it very much.

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SUSAN SMITH

The Chair: Susan Smith. Welcome. You are the last of our presenters, but I assure you the committee is waiting with bated breath to hear what you have to tell us. We very much appreciate your being here.

Ms Susan Smith: Thank you very much. I appreciate you've had quite a long day.

I'm here presenting as an individual. I've had my driver's licence for a long time and I consider this piece of legislation in many ways long overdue, as contracted as it is. I've looked at the bill and the legislation and appreciated the genesis of how it came about, with some public input as well as the private members' legislation.

The analogy that I would bring to this is an industrial safety analogy. My parents made me take an auto mechanic's course in high school. I also had to take the public education system's driving training program to be the third driver on the family car. I consider that it worked out to be really good training, having packed wheel bearings and had grease guns backfire on me and all kinds of things. It gave me an appreciation. If I thought I ever wanted to own a car for personal convenience, and it is a personal convenience, I certainly wanted to know things about it and understand how it operated, because it's 2,000 pounds of motive power. Having had some experience in an industrial workplace, I think that's an appropriate analogy to bring to the issue of permits. In French, it's by permit, to drive; it's a permission, it's not a right.

I've checked carefully — I'm not a constitutional expert; that's not my bailiwick — but there are some considerations under constitutional law. When you are deliberating on and constructing and passing legislation here, you want to keep in mind a number of things in constitutional law that should be supporting and maintaining and building up the validity of this legislation, because it's an important issue to address.

The last time I renewed my driver's licence — I have an X restriction because I'm required to wear my corrective lenses — in very fine print it indicates that the maximum penalty for making a false statement and putting my signature to it is \$500. One of the things that I ask you to consider under whatever appropriate piece of legislation is increasing that sanction in terms of dollar figure. It should be well worth more than \$500 for somebody to be placing her Susan Smith or John Henry on a licence renewal where the first question one has to answer is: Is your licence under suspension? I don't believe the \$500 is strong enough. It's not enough money, it's not enough of a financial sanction against the seriousness that is committed when someone puts their signature to that kind of document.

Like many other people who have been here, I certainly appreciate the absolute liability that you propose to incur on wheel separation. I think that's really important, because a circle check is important. As a matter of fact, it wouldn't be something that I would make a presentation about to complain if you made it apply to vehicles other than commercial vehicles. So I'm expressing that vehicles that people use for their individual use — that would not be appropriate. I think it belongs as a sanction that wheel separation incurs the absolute liability.

I would have liked to have seen it applied as well for school buses. There are aspects of vehicle liability, and not only fines, that I believe are very important with the issue of what this bill proposes to deal with for people who are imperiling safety on the public thoroughways by passing school buses.

In one section of the bill there's a reference to the impounding of vehicles. It seems to me that in the context of this bill it's a fairly narrow area that application is being made in. It's now in the new section 50.2 of the act. I actually would suggest that the "exceptional hardship" provision be removed. I don't believe that there is an exceptional hardship argument to make. It's quite an elective thing to consume alcohol. It's required to be at the age of 19, so it's certainly an informed choice that is made. To me, it's a disclaimer in there that doesn't belong. Whether people can read a newspaper or not, whether the Toronto Sun's willing to put a particular term of a new piece of legislation on the front page or not, and inform people, I don't see any rationale for exceptional hardship.

In the same area, when the vehicle used for the commission of the impaired driving doesn't belong to the person driving the vehicle, I feel that you should further elaborate and enumerate in the bill, not just by regulation, what due diligence you require. If I have an automobile and I'm going to be willing to lend it to somebody, for instance, the cost of a photocopy to photocopy their driver's licence — that's not onerous due diligence. The

effort can certainly be made to ascertain that someone has a legal permit to drive an automobile or to operate a vehicle and that their licence is not under suspension.

Under your new section 55.1 of the act, with respect to the vehicle being impounded, I appreciate what's in the legislation. I don't know if there's an overarching legal reason why you have to refer to a "prescribed period." It would seem to me that there shouldn't be a sunset of a prescribed period. If at any time a motor vehicle has previously been impounded because the driver has been impaired or suspended, it doesn't seem to me that there's a good reason to have a sunset of time for that. For the second time in a prescribed period, if you have to use that, under the same section, I would not move from 45 days to 90 days, I would move to 180 days.

There's a part of this legislation, and it was in the minister's comments when he introduced the bill, that I think, with respect to the majority of the membership of the committee — it's the play, the sport, the baseball analogy of three strikes and you're out. It's a male construct. We all appreciate baseball, but to go back to the industrial safety analogy of operating 2,000 pounds of motive power, in a workplace, a worker, whether it's a collectively organized, a unionized workplace or not, would not be permitted that total lack of due diligence on the part of every other system operative in the workplace, in the location, to not intervene. The three strikes and you're out analogy to me is something I feel deeply critical of because it doesn't acknowledge the importance of intervention to solve a problem.

Finland has zero tolerance. If you're a breastfeeding mother and you have your child appropriately strapped in a little car seat in the back, if you are apprehended for impaired driving, you do not pass go, you go directly to jail. That's the intervention in that society. I don't know if we're that much more wealthy a society that we can afford to be spending a lot more of public wealth on monitoring the roadways, but to me that's an indication of an issue of the combination of the importance of operating motive power — that it is machinery, it's equipment, one is in the public domain operating a vehicle, and that there is a real impediment to total safety and total quality management, if you will, by virtue of someone adding alcohol into that equation.

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I used public transit to get here today from London, Ontario. The first thing I did leaving my home was get on the public bus system. At 11:30 this morning, at a major intersection with four-lane traffic on all four corners, the bus driver missed the advance green because he was sitting nodding and his eyes closed. I was sitting close enough to actually say, "Excuse me"; not to startle him, but he was actually nodding off.

There are all kinds of rationales why that happens. Anybody can have low blood sugar at any point in the day. They'd forgotten to eat, didn't have enough sleep the night before, whatever. The point being that human error can be a cause of accidents while operating heavy equipment, with absolutely no other mitigating factor whatsoever.

To me, the sanctions required in a piece of legislation like this are very important to modify behaviour at

whatever level the intervention takes place, at whatever point in the individual's life this is taking place. To me it begs sanity to suggest, after a first conviction, that we're not intervening as a society with everything we can use to prevent this kind of thing. This is completely preventable.

Keep the tax break; spend the money how it needs to be spent. If this develops a very complex system, a complicated system, the world we live is that Labatt and Molson can't hit each other over the head hard enough to sell beer at a cheaper price. Where's the sense? People moan about a sanitary sewer charge and don't understand about the availability of potable water. Yet this seems to be something that we haven't been prepared to sanction in our society.

This bill begins to scratch the surface. The only issue you've used out of Target '97 it seems to me, in addition to the wheel separation, is the impounding of a critically flawed vehicle with critical maintenance errors on it with, obviously, impending accident potential. There are a lot of issues around graduated licensing. We've been going in the right direction. I appreciate the ministry has been bringing this along over a number of years. It's time to get to it. It is unfortunate that what appears to be missing with respect to the — and I'm sorry Mr Hoy isn't here today — school bus safety is really important.

From my personal experience living in an urban area, I would say we probably see more lack of observance of what's required to honour the fact that school buses are carrying — that's what kids do. Their job is to go to school. In the movie Ferris Bueller's Day Off, one child says to the principal, "You've never smelled the school bus before, have you?" It's a great line. The kids are entitled to total safety protection while they're on a school bus. Increasing the fine doesn't seem to me to be enough of a sanction.

I think that same intervention of loss of points, a charge — to me it is criminal negligence to be in a vehicle and think that it's somehow personal space that isn't sharing the same road as other necessary vehicles, which by definition is a public transit vehicle, a school bus. When I'm driving a car, that's not public transit. It's a privilege to be on the road, having the enjoyment of private space in the public domain. At all times it should be acknowledged as a privilege.

I would also like to see the Worona inquest recommendations used to improve the legislation, or a piece of legislation, if you can. I would hate to be cynical enough to feel that the implementation of regulations at the cabinet level would simply be accommodating the ever-present, ubiquitous interest of the Ontario Trucking Association to curry favour and have influence and, of course, make their appropriate donations to political coffers at the appropriate time. I think this job you have ahead of you is a lot more important than that.

I don't know if the Mid-Ontario Equipment Ltd's wheel separation was part of what moved this along quickly. WMX Technologies, which now owns that firm, is the largest rolling stock transnational on the planet and has an interest in being able to protect its profit margin. There's a big challenge ahead of you to regulate that, to

begin to improve the inspection and to improve the standards. I'm just a regular Ontario voter who looks to you to do that soon.

The Chair: Thanks very much, Ms Smith. We have one minute per caucus. Mr Bisson for the third party.

Mr Bisson: One of the things that you're talking about is that when it comes to truck safety, when it comes to highway safety, a big part of it is attitude. We heard in earlier presentations, in the case of Mr Larochelle and others, talk about how we are always trying to, by way of legislation, pin the fault on one individual within the whole realm of those responsible for trucking. What I hear you saying, and I support, is that we need to look at this from a broader perspective than just saying an increased fine or this or that or the other thing will fix the problem. Rather, what we need is a comprehensive approach and also a changing of attitudes to a big extent, which can be done through public education. I want to thank you for presenting and bringing forward those views.

The Chair: For the government, Mrs Marland. Mr Hastings would like 10 seconds of that time.

Mrs Marland: Go first.

Mr Hastings: No, ladies first.

Mrs Marland: Okay. Ms Smith, thank you very much. I thought you made some excellent suggestions. I hope we can follow up on some of them. I agree with you the bill begins to scratch the surface, but as somebody who's been fighting for three years to get some changes from where we are today, I'm grateful for the bill. But I agree with you that once we get this implemented, then we're in a position to start cutting back to where it should be at. I agree especially with you about the exceptional hardship. My interpretation of "exceptional hardship" is the person the drunk driver kills who may be the breadwinner who's lost their life.

Ms Smith: I think there's a perspective to put exceptional hardship in. Ontario hasn't become a right-to-work province, but a frozen minimum wage at \$6.85 an hour — I mean, exceptional hardship is certainly relative. With respect to the three years, I've seen this develop. To be quite honest, I don't think there's really been public consultation. I certainly made my phone calls to get here and begged the clerk for an opportunity to make a presentation, however limited it is, because I don't think there's been public input.

There has been an industry and there is a stakeholder group giving input. But frankly, my concern was an opportunistic election call within less than a year by the government, meaning this would be on the shelf and not done. I was really, really concerned that not have an opportunity to take place. This is only scratching the surface. It needs to be done right away. You really have to get to the rest of the job quickly.

Mr Hastings: Thank you for coming today. Are you aware that signing a false statement about renewing your driver's licence — you said there was only a \$1 to \$500 fine?

Ms Smith: "Maximum \$500 fine" is what's printed on the bottom.

Mr Hastings: But in actual fact, making such a false statement, if convicted, you can end up in jail for 30 days and you can have a six-month suspension in addition to what you've noted. What would you recommend it be in terms of the pricing?

Ms Smith: In the first instance, I'd recommend that the additional information you've just given me also be printed on the actual form that gets sent to people three months before our birthday to renew the licence. Perhaps at one time it did; I don't know why it would be missing now. Now that you say it, it makes sense that writing a false statement would incur the potential for a jail term. That currently does not appear on the 1997 notice I received to renew my licence this year.

Mr Duncan: Just two brief comments: First of all, you had made a recommendation that the Worona inquest recommendations be dealt with. The government has said on a number of occasions in the House that they're acting on those. We put in an order paper question, which is a tool we have to use in the Legislature that the government has to respond to. Despite what they've said in the House, they've refused to provide us, written, which ones of the recommendations they have proceeded on and which ones they haven't. The last response that was published said they didn't have time to get it prepared. In spite of what the minister has said publicly, I believe they haven't acted on them. I believe the point you raised is extremely valid.

The other point I wanted to make note of very briefly to you is that in the private member's bill I introduced, I proposed a format by which the regulatory initiatives contained in Target '97 could be dealt with in a more public fashion. The official opposition will be putting an amendment to that effect tomorrow.

The Chair: Thank you very much for taking the time to come here this afternoon and to give us the benefit of your views and your experience.

Ladies and gentlemen, I would remind you that amendments must be filed by 1 pm tomorrow. We have assurances that all outstanding questions will be answered by 12 tomorrow at the latest. It's a tight time line, but we'll try and work within it. Perhaps we could ask the government to speed up the process as much as possible. We will have a list of all outstanding questions tomorrow and how they've been answered.

I would also tell you we'll be meeting in room 151 tomorrow for clause-by-clause at 3:30. We are adjourned.

The committee adjourned at 1802.

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**Standing committee on
social development**

**Comité permanent des
affaires sociales**

Comprehensive Road
Safety Act, 1997

Loi de 1997 sur un ensemble complet
de mesures visant la sécurité routière



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENT

Tuesday 24 June 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
AFFAIRES SOCIALES

Mardi 24 juin 1997

The committee met at 1546 in room 151.

COMPREHENSIVE ROAD SAFETY ACT, 1997

LOI DE 1997 SUR UN ENSEMBLE COMPLET
DE MESURES VISANT LA SÉCURITÉ ROUTIÈRE

Consideration of Bill 138, An Act to promote road safety by increasing periods of suspension for Criminal Code convictions, impounding vehicles of suspended drivers, requiring treatment for impaired drivers, raising fines for driving while suspended, impounding critically defective commercial vehicles, creating an absolute liability offence for wheel separations, raising fines for passing stopped school buses, streamlining accident reporting requirements and amending other road safety programs / Projet de loi 138, Loi visant à favoriser la sécurité routière en augmentant les périodes de suspension pour les déclarations de culpabilité découlant du Code criminel, en mettant en fourrière les véhicules de conducteurs faisant l'objet d'une suspension, en exigeant le traitement des conducteurs en état d'ébriété, en augmentant les amendes pour conduite pendant que son permis est suspendu, en mettant en fourrière les véhicules utilitaires comportant des défauts critiques, en créant une infraction entraînant la responsabilité absolue en cas de détachement des roues, en augmentant les amendes pour dépassement d'un autobus scolaire arrêté, en simplifiant les exigences relatives à la déclaration des accidents et en modifiant d'autres programmes de sécurité routière.

The Chair (Ms Annamarie Castrilli): Ladies and gentlemen, thank you for being here. We are beginning the clause-by-clause summary of Bill 138.

You should have received a number of documents. The first is the revised Target '97 summary. There are also a number of submissions which have been sent in that you should have. There is a list of summary of recommendations which has been prepared by research. Finally, there were a number of questions asked during the course of these hearings. I want to report to you that they've all been answered with the exception of two, and I just want to note those for the committee. The first is question 6, which was posed by Mr Bisson. Essentially, the question was, which of the Target '97 recommendations require either regulation or legislation to be implemented? That has not been answered, as far as I know.

Mr Dwight Duncan (Windsor-Walkerville): I've got that.

The Chair: Do you have that?

Clerk of the Committee (Ms Tonia Grannum): That's been handed out.

The Chair: Super. So we do have that. Question 12, posed by Mrs McLeod — why is the introduction of the

interlock system being delayed in Ontario, and the status of the ignition interlock in Ontario — is the only other outstanding one.

Mr Gilles Bisson (Cochrane South): Just before we start, does the clerk have a copy of Target '97, by any chance?

The Chair: We'll check. If we have one, we'll give it to you.

We then pass to clause-by-clause consideration of Bill 138. We'll start with section 1 of the bill.

Mr Bisson: I have an amendment I'd like to move.

I move that the bill be amended by adding the following section:

"0.1 Part I of the Highway Traffic Act is amended by adding the following section:

"Report to assembly

"5.1(1) The minister shall lay a report annually before the assembly.

"Same

"(2) The annual report shall include the legislative and regulatory activities that the ministry has undertaken in the following areas,

"(a) truck wheel assembly and preventative maintenance;

"(b) brake inspection, maintenance and adjustment;

"(c) overall mechanical fitness of trucks;

"(d) safety ratings for trucks and carrier operations;

"(e) the commercial vehicle operator's (CVOR) system;

"(f) truck maintenance and inspection standards;

"(g) hours of work for drivers;

"(h) class 'a' driver licence testing; and

"(i) class 'a' driver training."

The reason the NDP caucus is putting forward this particular amendment, and I as the NDP transportation critic, is that all sides of the House, all three parties, recognize there is a problem out on our highways with regard to truck safety. There has been a concern expressed by the public and by ourselves as members of this assembly. We know the industry, along with other stakeholders, worked closely with the ministry to develop some good recommendations in Target '97, not all of them perfect but certainly good recommendations, to address the issue of how to make the industry safer for the travelling public and for the industry itself.

There was a fairly extensive process gone through to bring forward the recommendations found in the document called Target '97. By way of background, when Target '97 was first announced a while back, a little less than a year ago, the Minister of Transportation identified correctly that a number of these recommendations needed

to be moved and dealt with fairly quickly to deal with what he termed at the time a fairly urgent situation.

The minister then in February introduced Bill 125 in the House to deal with one of the issues with truck safety, namely, flying truck wheels. For a number of reasons, that wasn't dealt with. The government, because it was moving on other legislation, namely, the megacity and other bills they wanted to get through the House, the minister was not able to get 125 through the Legislative Assembly process. The government House leader had other important business he wanted to deal with, and the minister couldn't get Bill 125 —

Mr Frank Klees (York-Mackenzie): Remember the filibuster?

Mr Bisson: Yes, there was a 10-day filibuster in there, but the point is that you guys have a majority in the House. You control absolutely everything that happens. The Minister of Transportation introduced the bill to be dealt with. He told us at the time it was important, then basically introduced it knowing he didn't have the support of his House leader.

Here we are some time later. Both I and the other opposition critic and the public and the families of the victims put pressure on the government to move on the whole issue of truck safety. The minister promised us at the time that he was going to give us comprehensive truck safety legislation.

I was in the Legislature along with the rest of you. I remember explicitly the Minister of Transportation saying this was urgent, that we needed to deal with it, that he needed to bring forward comprehensive truck safety legislation. He wouldn't deal with Bill 125 on its own as it was only one piece of the puzzle; in his own words, a whole bunch of other issues had to be dealt with. We waited patiently for the minister to bring forward comprehensive truck safety legislation. I talked to the minister personally and I know the critic from the Liberal Party did, and our House leaders as well, to say we were prepared to give the government support to move forward on what is called comprehensive truck safety legislation.

What does the government bring forward in Bill 138? They bring forward a bill that's positive — we're going to vote for it — and certainly a step in the right direction, but it falls far short of being comprehensive truck safety legislation. The amendment I've put forward today says, "The government has certainly taken a step forward, but we need some assurances that the government is going to move on some of the recommendations within Target '97." The industry wants it, the public wants it, the families of the victims want it, the government hopefully wants it, and I know the opposition parties want it. We're saying, let's put an amendment in the bill that says to the minister: "We have your feet to the fire. You have to perform. You can't slough this off to the political whims of whatever happens." If we're serious about truck safety, let's adopt the amendment and let's move forward.

The Chair: Further debate. Mr Hastings?

Mr Klees: Call the question.

The Chair: Mr Hastings is just making his way. We'll give him an opportunity, if he wishes, to debate.

Mr Klees: Call the question.

The Chair: Mr Klees, let me be the Chair, will you? Thank you.

Mr John Hastings (Etobicoke-Rexdale): Let me respond by pointing out that Bill 138 is, in its short title, the Comprehensive Road Safety Act, 1997. It deals with the issues, some out of the Target '97 recommendations, some out of bus safety, and another major component deals with the drunk driving provisions and the severe penalties we are presenting in this particular legislation.

I find it rather ironic that the NDP transportation critic maintains in the House that we're moving too quickly with legislation, yet in this committee is pushing very strongly that we're not moving quickly enough. In my estimation, that's a clear contradiction. I don't want to get into all the politics of that, but I think it needs to be essentially placed on the record that we are moving in a very orderly and comprehensive way.

As we go through these amendments and through the legislation, we will have at the end of the day a comprehensive road safety bill that deals with the major concerns coming out of the trucking industry, coming out of the public's requirements and demands for action on drunk driving, and also dealing with some of the concerns raised by members of both the opposition and the government regarding school bus safety. That's my statement dealing with the rationale for this bill and how it got here.

Mr Bisson: I don't want to delay this a whole bunch, but I have to make a point. We in the NDP say Bill 138 deals progressively with a couple of very important issues. We support that and we haven't got a problem. We congratulate you for having done a good job on the drunk drivers issue and a few others in the bill.

But that doesn't take away from the fact that the government promised it was going to move forward and give us comprehensive truck safety legislation to deal with what's happening in the deregulated trucking industry. We have a lot more trucks out on Ontario highways. They're all competing to try to make a buck. We understand that. In the competition to make a buck, safety is one of the things that's thrown out the window.

We heard a number of people present at this committee, as we had at other committees before, that something needs to be done to find a way to make the industry safer and to level the playing field, to use Brian Mulroney's term, for all the operators within the trucking industry.

We're not suggesting by way of this amendment that we force the government to do something all of a sudden really quickly and pass Target '97 holus-bolus without due process. What the amendment talks about — and the parliamentary assistant is being fairly selective. We want to put a requirement in Bill 138 that says the government every year has to report where it's at: Have you moved on comprehensive truck safety legislation? If you choose not to, that's your choice, and you will either pay for that or reap the rewards at the next election, whatever the voters decide. We put ourselves in their hands. That's the nature of our business.

We're not saying that by a certain date everything in Target '97 be done. That's not what we're asking for in this amendment. All we're asking for is that every year the Minister of Transportation must come to the Legisla-

ture and must state what he has done when it comes to truck safety vis-à-vis Target '97. Let the minister at that point decide the timelines for when he wants to decide things.

The problem we have and the reason we bring forward this amendment is twofold. First, once Bill 138 passes, I don't think the Minister of Transportation is going to get another opportunity to deal with truck safety legislation. I'm trying to give him an opportunity and some support to make sure this does come back and we're able to deal with it.

Again, we're not asking that Target '97 be dealt with holus-bolus by Tuesday morning, like the government would like to have with the rule changes. We're saying: annual reports; let the minister tell us where he's at; let him report to the assembly every year what he's done to deal with the whole issue of truck safety. If the minister decides to do that quickly or slowly, that's a decision he's going to make.

I would argue that we do it right, get it right, work together to make the highways safer for Ontarians, that we don't play politics with this. That's what this amendment was for. I could quite easily have brought in a thousand amendments to try to play with this. The only point I'm thinking is that you've got some good legislation here in Bill 138, but you could have done a lot more when it comes to truck safety. The families of the victims ask you to move, the trucking association asks you to move, the public wants you to move. This is going to make sure the minister in the end does what he should, and that's dealing with truck safety for all Ontarians.

Mr Gary L. Leadston (Kitchener-Wilmot): I think it's important to indicate that there were deputations that appeared before us who were strongly in support of the bill in its entirety. Although this is my first term, I do have a fair amount of experience at the municipal level, and I don't know of any municipal bylaw, or in my experience so far here I don't know of any bill we've passed and/or has gone through the various committees, that's going to satisfy every element and every party and every citizen. There will always be something the members of the opposition — that's their role — will either find fault with or take exception to. Individuals will appear who will find exceptions; they would like this included, they would like less of this, more of that. That's the nature of the beast.

However, I wanted the record to reflect, contrary to what the member said, that there were individuals who appeared here who supported this bill in its entirety and wanted it completed, wanted it passed and in effect.

1600

Mr Bisson: Let me be quite clear. We support Bill 138. The public wants you to pass 138. That's not the question. The point is that the Ontario Trucking Association and a number of people are saying that in Target '97 there were 79 recommendations, of which only one is found in Bill 138. Let's not hold up 138; let's pass it. It's a step in the right direction. No problem; we support that.

But there is far more that needs to be done when it comes to truck safety legislation than passing Bill 138. What about the other 78 recommendations of the 79 in

Target '97? We want some assurances that the government is going to move forward with a process where the public is involved, the public associations, the trucking associations, the ministry and others, to make sure we move on the recommendations of Target '97. We studied this to death. We don't want the report sitting on yet another shelf collecting tons of dust. I want to work with you so we can make highways safer for Ontarians. There is some good work here. Let's move on it. That's all this amendment is saying.

Mr Klees: We agree with Mr Bisson. Where we differ is that he feels we should be entrenching in the legislation his amendment. I can understand that. You take ownership of an amendment, and even though you've heard the rational explanations of the parliamentary assistant and my colleague you still want it passed as an amendment. We're saying we agree with you in principle that there is yet much to be done. The minister said that in his statement to this committee. In fact, the minister gave his undertaking that much more would be done, but he also indicated that he intended to consult appropriately with the industry to ensure we get it right.

Most of the things you're referring to should be done most appropriately by regulation. It's my understanding that that is the intent — it was clearly articulated here by the minister — and we would proceed accordingly.

Mr Bisson: The explanation of the parliamentary assistant was that we're on one hand trying to say to the government that they're moving too fast in the House, and that on the other, somehow I'm trying to force you guys to deal too quickly on the recommendations of Target '97. That's not at all what I said. I'm not going to repeat it; I made the comments a little while ago to Mr Leadston.

What I'm getting at, to be blunt, is that the minister promised us comprehensive truck safety legislation. That's what he promised us before Bill 138 was put in place. That's what we expected — not what I expected. That's what he said and that's what everybody expected.

Mr Klees: It's a matter of definition.

Mr Bisson: Well, what am I to believe when the minister stands in the House and says publicly to the critic: "Just wait. I'm coming forward with comprehensive truck safety legislation. It'll be here this spring"? The Premier stands in the House when asked questions on Bill 125 and says the same thing: "Just you wait. We're coming with comprehensive truck legislation."

Mr Klees: That's what it is.

Mr Bisson: This is not comprehensive truck safety legislation. That's the point.

The Chair: Mr Bisson, could you wrap up?

Mr Bisson: The rules allow me to make the point, and I am going to use the rules as long as we have them, Chair.

Mr Klees: Another filibuster.

Mr Bisson: No, it's not a filibuster, not at all. We all, on all sides of this House, take our jobs very seriously. I know that government members come to this committee, as they come to the Legislature, to do the right thing. So do we.

When the minister and the Premier stand in the House and say they will move forward on comprehensive truck

safety legislation, that raises the expectation of the public, the transportation industry and, yes, the opposition, and I would think the members of the government as well. This is not what this bill is all about. All we're asking for by way of this bill is for you guys to accept this amendment. If you're not going to do that, the question I have to the parliamentary assistant is simply this: When do you expect to come forward with legislation to deal with what is in Target '97? Do you expect legislation tabled in the next week, month, two months, three months? When do you expect to come forward if you're going to move on it?

Mr Hastings: We will introduce legislation required under Target '97 for those particular items that require legislation. For example, the private vocational schools act for truck driver training and certification would have to be brought in under a separate scenario. In terms of the timing expectations, we're looking probably in the next six months or so. It will have to be ascertained in terms of what the House leader, in negotiation with the two opposition House leaders, see as legislation that — and what the government sees as its priorities when we return on August 18. It certainly isn't going to be in the next two to three days, as Mr Bisson has alluded to, perhaps.

Mr Bisson: You couldn't; the rules wouldn't allow you.

So what you're saying to me is that the government plans on moving forward with legislation that deals with the legislative requirements of Target '97 within six months.

Mr Hastings: That's a realistic hope. I think it's buttressed, to a certain extent, by what the House leader and the caucus also sees as a priority.

I would also like to respond that in terms of Target '97 there were 79 recommendations brought out of that exercise; 35 will require regulation of one sort or another; seven will require legislation; 27 will require either a major policy change or a process implementation. And one of them is a federal responsibility, and we don't necessarily agree to all the dimensions of that specific recommendation.

Mr Bisson: I've always said to the parliamentary assistant that we don't expect they're going to be moving on the entirety, every one of the 79. I do recognize there's one that's federal, and you've already done one of them.

There's a second part of the question, on the regulation portion. You're saying in six months you're going to introduce legislation to deal with those items in Target '97 that need legislation. In terms of the regulatory part of Target '97, when do you expect to move forward on that, and how will you notify the public and the opposition of the changes in regulation?

Mr Hastings: I think announcements by the minister, which he's done before —

Mr Bisson: Have you ever tried to get an answer from the minister in the House?

Mr Hastings: — and also by questions that can be brought out by members of the opposition or the government. To me, those are very appropriate ways and the appropriate forum in which to deal with the list of items, which in my estimation are to a great extent out of order.

The Chair: Mr Bisson, I've allowed you a lot of latitude. I would ask you to restrict yourself to the amendment. We're going beyond the amendment at this point.

Mr Bisson: I'm not going beyond the amendment. I'm dealing with what's within Target '97. The last question I have: Do you plan on moving within the next six months on the regulatory portions of Target '97? It's a very simple question.

Mr Hastings: To answer that, Monsieur Bisson, we have to look at a prioritization of those items in Target '97 that are going to require some extensive regulatory work. We'll do our very best, in terms of that prioritization, to get those out that we believe are absolutely essential for the motoring public, for its safety and also for the trucking industry.

Mr Bisson: Would you say a majority of the regulations within six months?

Mr Hastings: No. I would say you're looking at closer to a year for the majority of the regulations.

Mr Bisson: Thank you very much.

The Chair: Shall this motion carry?

Mr Bisson: A recorded vote, please.

Ayes

Bisson, Duncan, Hoy, McLeod.

Nays

Froese, Hastings, Klees, Leadston, Munro, Parker.

The Chair: The motion is defeated.
Are there any further motions?

1610

Mr Duncan: I have several motions at this point. First, I move that the bill be amended by adding the following section:

"0.1 Part I of the Highway Traffic Act is amended by adding the following section:

"Truck Safety Review Committee

"5.1(1) Within 30 days after this section comes into force, a committee shall be established to be called the Truck Safety Review Committee in English and the Comité d'étude de la sécurité des camions in French.

"Composition

"(2) The committee shall be composed of five persons appointed by the Lieutenant Governor in Council.

"Function of committee

"(3) The committee shall make recommendations to the Minister of Transportation and the Solicitor General and Minister of Correctional Services on the implementation of the following:

"1. The recommendations of the Target '97 Task Force on Truck Safety.

"2. The recommendations of the coroner's jury in the inquest into the deaths of Angela Worona and James Tyrrell.

"Reports to Speaker

"(4) Every four months the committee shall make a report on its activities to the Speaker of the assembly, who shall cause the report to be laid before the assembly if it is in session or, if not, at the next session."

And this one's for Mr Klees, a sunset clause:

"Committee dissolved after five years

"(5) The committee shall be dissolved five years after the day this section comes into force."

I had originally proposed this in my private member's Bill 133, and I was pleased at the number of groups that came here and endorsed this, including the CAA. I should tell the PA that notionally, the idea of implementing your recommendation of the regulatory changes in one year — we have heard testimony and statements from others to say that is not doable, that a number of the regulations could take upwards of five years for full implementation if done properly.

We believe the process should be clear. We believe it should be transparent. We think it's in the government's interest that this committee be there. The government has made, I think, legitimate undertakings with respect to truck safety. We now have back the answer to our question — I thank the parliamentary assistant for that — with respect to the implementation of the various recommendations of Target '97. I should point out that there were also 31 Worona inquest recommendations in total. I placed an order paper question some weeks ago; it was responded to according to the standing orders, and the answer was that we couldn't respond to it in this time frame.

We're simply suggesting that the government appoint this committee; that it be clear and transparent. I think the government acted in good faith when it appointed the original Target '97 group. The truck industry, the CAA, others who had an interest in the issue were part of it. I think this will assist the government in making sure the public understands what's going on in terms of the regulatory environment and to ensure accountability.

This particular motion is really at the heart of what we're concerned about. As an opposition, I believe this is the first time we have agreed to support a government bill. We do so in good faith because we believe the government has acted in good faith. We hope this amendment, this type of committee, would allow everyone, in the public particularly, to have the sense that the regulations are being proceeded on. We saw what happened with Bill 125. When the government decided not to proceed with it, it created a whole fire storm around that.

I should say to the government members of the committee and the parliamentary assistant that if you have this type of review body in place — it has no power to change them; simply to review and look at them on a periodic basis — I suspect the number of questions raised publicly, the allegations that the government is not concerned about safety will die right out. There will be a transparent process that doesn't cost anything and is sunsetted to help ensure that the regulations that the government intends to bring forward — even though there is a process in the regs, it ensures that everybody feels an ownership of this and has an input. That's why we propose this.

Mr Bisson: What has been said has been said. I just want to indicate that our caucus supports this amendment. It's in keeping with what we're trying to do, which is to make sure there's public accountability about the imple-

mentations of Target '97 and, I repeat, to make sure there is some pressure brought on the government to move forward on the recommendations of both Target '97 and the Worona coroner's inquest.

Mrs Lyn McLeod (Fort William): I just want to add to the comments made by Mr Duncan that I trust the government has looked seriously at the proposed amendments. This amendment is one of the ones we think is particularly in keeping with the good faith that's gone into this bill and is very beneficial for government in the longer term. Quite clearly, it has been presented by my colleague in a way which leaves it totally within the control of government.

It addresses the major concern we've heard in these rather brief hearings, which is that the bill does not go far enough, and what is going to happen to the balance of the recommendations under Target '97? This provides a forum, with the appointments entirely within the hands of government, and which is, as my colleague has said, solely advisory, to provide that reassurance that there is a clear public process and that there is a way of ensuring that in areas that have not yet been addressed by this legislation there will be some future action taken.

I trust this is the kind of recommendation which the government would see as being very much in keeping with the cooperative effort that's gone into the bill and would in fact be beneficial for government in the longer term.

Mr Hastings: The ministry's and the government's response is the following: I find it rather unusual that members of the opposition parties are proposing an exercise or a process by which they are giving away their opportunities to ask questions in the House to the minister. It seems to me you're setting this up quite contrary to this particular government, which when it came into power two years ago found a whole plethora of advisory groups and bodies which we went through a red tape exercise to reduce and eliminate, particularly where we had unaccountable groups spending an unaccountable amount of money on a variety of issues.

We find, and I also find it personally, this particular operation another body of bureaucracy being added to the whole operation. In my estimation, the minister has made a very serious commitment, as has the group that constituted the Target '97 task force group, to make sure these recommendations will be implemented. Some of them do take some time, on the regulatory side. In my estimation as well, few issues have had more popular opinion and media exposure than this particular issue of road safety in all its dimensions: school bus safety, drunk driving provisions and truck safety.

As well, the number of deputies to this committee were involved in the public consultation process. This very standing committee on social development afforded an opportunity for deputies to make their views known. In addition, these deputies, and others who didn't have the opportunity during the three days of presentations, will be keeping a very close eye on the whole operation and how we implement Bill 138, as well as the Target '97 recommendations which aren't part of Bill 138, although the opposition parties continue to insist they ought to be.

Furthermore, and finally, I think we need to point out that standing committees and this type of process are clearly demonstrable ways of having accountability. When you add another advisory body, an additional level of governance, even if it is only advisory, it takes it out of the public eye and puts it into a more backroom approach, a backroom agenda. To me, it is needless, in terms of its rationale. Therefore, the government rejects this particular proposition in this amendment.

Mr Bisson: I don't know where to start. It's quite an interesting comment by the parliamentary assistant. The government argues that having a public forum, a commission, is a backroom approach to dealing with a public issue. I don't know if I find it most regrettable or most — I don't know what to say. Quite frankly, I'm really at a loss for words about such a comment.

I say again, this is a good motion brought forward by the opposition critic. He's trying to do two points we've debated ad infinitum here: to have some public accountability and to make sure that recommendations of Target '97 are moved forward.

We support it. The Liberals support it. We think it's good stuff. I know the Ontario Trucking Association supports it. I know the CAA supports it. The public and the families of the victims support it. Only the government is offside. The comments we get that giving the public a voice on the commission is just another commission, another bureaucratic body akin to backroom deals — my God, I don't know what to say at this point. I guess it says something about this government.

1620

Mr Duncan: I just want to appeal to my colleagues across the way. We have tried to act in good faith on this bill. I don't see how a five-member committee with a sunset clause, designed simply to provide advice, a committee appointed by government that does not have to be remunerated, can be construed in any way, shape or form as being contrary to what I think the intent of the members of the Legislature is. That is to ensure that the regulations — I'm not even concerned that the government will deep-six them because the government doesn't care. I'm just more concerned that in the balance of business we have in the House and what we have to deal with and what the ministry has to deal with on a day-to-day basis, these things can get lost, that the meeting that was supposed to be next week has to be postponed because the minister has an urgent commitment somewhere else.

We've brought this forward in good faith, tried to keep the hyperbole and the rhetoric to a minimum, because we believed and we said at the time that the government has acted in good faith. We think this will enhance the bill. We think it will save the government a lot of grief in the future. I hope my colleagues opposite will give consideration to this amendment.

Mrs McLeod: I really find the ministry's response to this quite appalling. I think it makes it very clear that any pretence of sincerity or good faith or cooperation in actually wanting to deal with the issue of truck safety was short-lived. The parliamentary assistant has suggested to us today, and he has said it more than once in the last few moments, that the only reason the government has

acted is because this became a major public issue. It's equally clear that they want this off the table as fast as possible so it will no longer be a major public issue.

The parliamentary assistant is well aware that the only time this issue can come back to this committee for public hearings is when the government brings forward future legislation. It is entirely back in the government's hands. I'm very much afraid that until we get into a situation where there are more tragedies, so it once again becomes an issue that's foremost on the public's agenda, there will be no public forum to continue to do the good work that was actually started in this bill.

Mr Bisson: The point has been made that we in the opposition acted in good faith on this bill. We could have tried to delay it. We've tried instead to give you speedy passage. We're putting forward friendly suggestions to make our highways safer and we're told that somehow or other we're not sincere in what we're trying to do and that we're trying to play some game here.

Listen, you can't come to us and say, "We want your cooperation," and hit us on the head once you're in clause-by-clause. There has to be a two-way street when it comes to cooperation. If you're not going to listen to us, at least listen to the public. The public wants this. You guys should be moving on this. This is ridiculous.

Mrs Margaret Marland (Mississauga South): I'm sorry. I was a few minutes late, and I apologize.

The Chair: Apology accepted.

Mrs Marland: I've been in a meeting with the Speaker on a security matter.

Mr Klees: Everything's okay.

Mrs Marland: Yes, everything's okay at the moment.

The Chair: If we could stick to the amendment, I'd appreciate it.

Mrs Marland: I may not have been here to hear the parliamentary assistant say you weren't sincere.

Mrs McLeod: It's the government that's not sincere.

Mrs Marland: Okay. I would doubt that our parliamentary assistant would say the two opposition parties are not sincere. Speaking as a government member, I'm completely confident that the reason that we've held our public hearings and we're now in clause-by-clause is because every single person in the Legislature is sincere about this bill and the road this bill takes us down, literally.

To Dwight, when you're talking in this amendment about a committee that is sunsetted after five years, are you suggesting that the committee makeup be the same people for five years?

Mr Duncan: It would be appointed by the Lieutenant Governor in Council. That would be entirely at the discretion of the government.

Mrs Marland: As to whether it would be a five-year term?

Mr Duncan: Yes.

Mrs Marland: Where you talk about the reports to the Speaker, have you got any other example? I can't think of any other example where an outside agency, board or commission appointed by the government of the day reports back to the Speaker rather than to the legislative body within whose sphere that responsibility lies.

Mr Duncan: There are a number of examples where agencies or boards report back to the Legislature.

Mrs Marland: This says "to the Speaker," though, and there's a difference.

Mr Duncan: If an amendment is required to provide for a proper mechanism, I would be prepared to support that, certainly to look at it. My intention — when you take away the gazettement, there's no public process or public review. I'm simply suggesting that if we can find a mechanism by which a small group of people, to be appointed by the government to serve at the government's pleasure, with a specific sunset clause incorporated by this amendment in this bill, reports back to the Legislature, be it through the minister, be it through a parliamentary assistant — I don't know what the proper mechanism is — if we can find that, my own view is that it'll make the legislation work better. In my view, it will also afford the government the opportunity, by the way, to demonstrate when it's making progress on regulatory changes.

It doesn't have to be extensive. That's the other point I wanted to make. I'm looking at this thing we got today; it's only two pages and it just details — we're very specific about what we want. The mandate we contemplate in the amendment is very specific. It's not the sort of thing that's going to take on a life all its own.

I personally feel that, even more, it will allow stakeholders such as the CAA and the OTA, which participated in Target '97, to continue to have ownership of that. The Target '97 initiative was an outstanding initiative. In my mind, it served almost as a precursor to this. That's why I'm a little troubled by the government's reluctance to have it there to deal with these regulatory changes as the government is making them. It gives a little bit greater accountability than the normal gazettement process. I think that serves the public interest in this case. As the parliamentary assistant said, there has been such public interest in the whole range of issues but particularly in the truck regulation issues.

Mrs Marland: Further on my same point, we have in the past had standing committees of the Legislature write reports with recommendations that there has to be a report from the appropriate ministry back to that standing committee as to where they are. I'm just wondering — and I'm strictly thinking aloud here — whether we could have a commitment made by this committee, which we could do by motion, that as a follow-up to the passage of this bill the Ministry of Transportation report back to this committee on a regular basis. That would give the opposition members and the government members a chance to find out how things are going, ask questions of the ministry, and also, if they wanted to, make suggestions or, if there are concerns, express concerns, and in fact make formal recommendations in a committee setting to further amendments to the bill.

Frankly, I see Bill 138 as a giant step. From where we are now, it's phenomenal. It is a giant step. It's not quite a step on the moon, but it is phenomenal compared to where we stand today. I'm very anxious to get this bill passed even with its — I don't want to say with its warts, but nothing is perfect. Nothing any government ever does is perfect, but the way you get improvements is by making amendments to existing statutes. Once this is

passed, it becomes an existing statute and we can make amendments in the future.

1630

As committee members, we're an elected body, and if we as a committee decided we should ask that the minister report back in six months' time about where the Target '97 recommendations are, and if it's necessary to make further amendments to the Highway Traffic Act to cover what we're not fulfilling with the passage of 138, it's a guarantee that what you're looking at is that the government keeps on top of this subject. I think that's the concern I hear you sincerely expressing.

Mr Duncan: The only difficulty I have with what you're suggesting — and I've met with the OTA and we've heard their testimony — is that if you review the Target '97 recommendations, a lot are very technical in nature and really don't, in my view, require the attention of a legislative committee, save and except on what I would call the broad picture. That is, how much progress are we making?

Whether or not a year down the road we're discussing some obscure part of one of the Target '97 recommendations, which are very technical in nature — I don't think you'd want to bring that to a legislative committee. I think you can achieve what we're hoping would be achieved simply by implementing this type of small committee.

With respect, there does have to be further legislation brought down in terms of the Target '97 recommendations. The parliamentary assistant, prior to your arrival, gave us his commitment that some of that legislation would be forthcoming, probably within six months, I think he said, and that's good. But again, once it's out of this committee, we have no way of knowing when they will bring it back. Even with the good intention of the government, as we all know, we don't know what could happen to stymie those efforts.

In my view, Margaret, just by way of summary, this is simply a very inexpensive, efficient way of allowing the Target '97 process to finish itself out. There's an outside body. We have a very well-defined group of interests here — the trucking industry, the CAA — and it gives those folks an opportunity to see through the development of the regulations. Despite what the ministry said earlier, I've been told by the ministry and by others that it could take up to five years for some of these regulations, simply because of their technical nature and because of the scope of impact they have on the industry. To our way of thinking, it's a very simple process which will assure not only the opposition but, more important, government members and the public that the regulations are being dealt with in a timely fashion.

My own view is that the notion of bringing this back to committee — you might find that some of it's very obscure, and really that's not necessary. Perhaps the broad picture is, but on some of the more obscure things, I don't think it would be a particularly efficient use of a committee's time, other than, say, in the broad picture.

Mrs Marland: I'll be very brief, just to finish the single response. Even if it is technical, we assume a huge responsibility when we're elected to public office. I'm quite willing as a committee member to say maybe what

we can do is pass a resolution that the minister come back before this committee and report in six months' time on where we are, and then we can decide whether it's another six months.

That way, I know I'm the person who's elected to make sure we have improvements in these areas and then I know the outcome of what's happening with those regulatory changes. I don't know that I really want to pass off my responsibility to a committee that — I don't know who they are. This of course doesn't give us enough detail about how the committee would operate.

I really want to take that responsibility myself. I'm going to be here voting on this bill today. We're going to be voting, hopefully, tomorrow on the final passage of this bill. I don't want to have my responsibility usurped at the end of all that to another body.

Mr Bisson: I'm encouraged by the comments of the member for Mississauga South. They indicate to us at least, in the opposition, that you're prepared for some sort of process that indeed gives us as legislators and the public, more importantly, the opportunity to know this stuff will be moved forward.

Mrs Marland: We have nothing to hide.

Mr Bisson: I'm not arguing otherwise. I would ask for unanimous consent to move an amendment that would do what the member for Mississauga South suggests, that the minister come back to this committee in six months' time to report on progress made, and at that point we can decide where to go from there. I would ask unanimous consent —

Mr Duncan: I think we should deal with this amendment first.

Mr Bisson: I was just about to finish with a caveat. Once we finish this amendment, I'd like to move that. The reason I jumped the queue was that I just wanted to point out one thing to the member for Mississauga South. When this amendment says "the committee shall make a report on its activities to the Speaker," it's to trigger a report to the House, that the Speaker would bring it back to the House. I just point that out. On the second page of that amendment, it's not just to the Speaker; it comes into the House.

Mr Klees: I have no problem in principle with what Mr Duncan is trying to achieve here. All of us sitting here want to ensure that the ministry follows through with the commitment the ministry has given all of us around this issue. My concern is that we be very careful about the precedent we're setting here as legislators in entrenching in legislation a requirement to police, if you will — that's really what we're doing here — what has been clearly stated is the intent of the minister, as a follow-through on this legislation.

If that's the path we're going to take on this piece of legislation, then every time we bring legislation forward I would see a companion piece of legislation or an amendment saying we have to establish a public body, appointed by order in council, to ensure that the ministry follow through. I just don't know —

The Chair: Mr Klees, perhaps we could wait until we see what the amendment is before you continue.

Mr Klees: I thought we have an amendment before us here.

The Chair: This is an amendment to the amendment.

Mr Duncan: There are lots of examples where ministers, in statute, are required to report back to the House on a periodic basis, be it on an annual basis or what have you. This particular process — I can't think of other examples comparable to it, so perhaps there's a point there.

My problem with Margaret's suggestion — if you were prepared to look at an amendment that would put a line in the bill that says the minister will on a periodic basis report back on regulatory initiatives, be it to the standing committee, the committee in the amendment or the Legislative Assembly, that would go further than simply a resolution of this committee.

My understanding of the rules of committee, and I stand to be corrected on this, is that ministers are not compelled, even by resolution, to report back. If we could contemplate an amendment that would amend the bill that the minister shall report back to this committee or to the Legislative Assembly on the progress of implementation of the Target '97 recommendations over some specified period of time, that might work for me, rather than simply a resolution of the committee asking the minister to come back.

Mr Klees: Madam Chair, if I might — I don't know why I was interrupted. I wasn't finished my train of thought. Maybe you thought I was heading down the wrong track, but —

The Chair: I'm trying to —

Mr Klees: I am speaking to the amendment that's before us.

The Chair: All right.

Mr Klees: What I was going to suggest is that while I couldn't support an amendment to this legislation, I very much agree in principle with what Mr Duncan is trying to achieve here. My suggestion is that perhaps what we should be doing as a committee is looking to another mechanism that would give us a sense of confidence that we are moving in the right direction. That may be through the Provincial Auditor, who has the responsibility to report to the Legislature on a regular basis as to the performance of the ministries. Perhaps what we should consider as a committee is to make a specific request to the Provincial Auditor that on this particular piece of legislation we would like a report on the progress the ministry has made on these particular issues.

1640

Mr Duncan: My only concern with that is that the auditor is not required to respond to individual members or to committees of the Legislature in terms of what he or she does. The reason I'm familiar with that is that I wrote to the auditor on another issue some time ago asking him to review a particular issue, and the specific response I had — I'd want to get a clarification, but as I recollect, he is not obligated to respond to individual members or committees of the Legislature in terms of what he does in any given year, what he reviews. That would be my only concern there.

We could, in good faith, do that, and the auditor could write back to us and say, "I've got so many requests on my plate that I can't respond to individual requests like this." I suppose, coming from a committee of the Legisla-

ture, it might have more weight, but the Provincial Auditor is not, as I understand it, required to respond to those particular requests.

Mrs Marland: He only takes direction from public accounts.

Mr Hastings: We may be getting a little bogged down in this whole thing, but I think it's essential that we find some way to deal with the opposition's concerns about timely reporting. My observations and experience with the public accounts committee is that as members of that committee you can ask and make a motion that certain things be done.

The member for Prince Edward-Lennox-South Hastings, Mr Fox, and I made a motion back in February of this year requesting that the Provincial Auditor's office report by the end of July on the costing of the maintenance of disadvantaged children, kids at risk, in institutionalized versus non-institutionalized settings. So there is a specific example by which public accounts can exercise what we may be trying to grapple with here today.

In terms of a specific advisory committee, we in the ministry believe that's not the way to go, particularly because, if the composition of that advisory committee is going to be ordinary folks, even if they're the most prominent citizens we can find in society, they will have no greater expertise on a technical matter than we as members of the Legislature would have.

With those points of observation, perhaps we can find a way that will satisfy Mr Duncan in terms of timely reporting, without the full implementation of this specific amendment. I think we can speak for the ministry in saying we're more than prepared to see how we could explore that situation, either through public accounts or simply through some mechanism of this committee, that the minister could come and make some report on a half-year basis or an annual basis or as the committee required, but certainly not through a specific external advisory committee as set out in this amendment.

Mr Leadston: We have 130 members in this House, and I think each one of those members will be an auditor with respect to this bill. More so, we'll hear from the police, we will hear from the victims, we will hear from the trucking industry and we'll hear from those who impound the vehicles. We are going to hear from the media. We're going to hear from the community.

If there are flaws in this bill, if there are errors or if it needs correction, we are going to hear, I don't think in five years; we're going to hear immediately. This is probably the most topical, most important piece of legislation that we're passing. I think we are going to be monitored, this committee, this Legislature, and this bill in particular is going to be monitored so closely and scrutinized by the driving public, by the victims, by the trucking industry, by the community at large. They are going to monitor it more closely than the auditor, than anyone could ever do, than the minister or a panel of five or 10, and we will hear rather quickly whether this bill has an impact, whether it's working or whether it's not working.

Mrs McLeod: We've had extensive debate. We have a number of other amendments that are important, and

I'm concerned that we're going to reach a point where they're considered to have been read. I'm thinking it might be time for us to deal with the amendment. Should it not be supported, rather than again have an extensive discussion of the nature of the motion and a debate on the motion, I suggest we continue with the amending process, and perhaps Mrs Marland would be prepared to put her recommendations into a motion form that could be considered by the committee at the close of clause-by-clause.

Mrs Marland: Yes, I would be.

The Chair: Mrs McLeod, I want to respond to your first point. We're not under time allocation, so we —

Mrs McLeod: But we only have one afternoon.

The Chair: But we could seek unanimous consent to sit beyond 6 o'clock if that's the case.

Mrs McLeod: I appreciate that clarification.

The Chair: Your point was that —

Mrs McLeod: That rather than deal with a motion which is an alternative to amendment, we deal with the amendment; should it be defeated, there would be a motion placed that would be considered at the conclusion of clause-by-clause, rather than continuing to interfere with the process of amendment.

The Chair: Very well. Is there agreement to proceed in that fashion? Fine. Mr Duncan, you were still on the list. Do you want to speak to this?

Mr Duncan: I think we've covered it.

The Chair: Very well. Shall this motion carry?

Mr Duncan: Recorded vote.

Ayes

Bisson, Duncan, Hoy, McLeod.

Nays

Froese, Hastings, Klees, Leadston, Marland, Munro, Parker, Smith.

The Chair: The motion is defeated.

Mr Bisson: I want to ask for unanimous consent for the committee to move a motion similar to what we just discussed.

The Chair: We can't deal with it at this time, Mr Bisson. We'd have to come back to it when we're finished with the existing amendments. We can entertain it at that time.

Mr Bisson: You can do anything by unanimous consent. I'm asking for unanimous consent.

Mrs Marland: Why don't you write it out so we don't waste time?

Mr Bisson: I've already got it written out.

Mrs McLeod: I suggested that consideration of motions be deferred until we've completed the amending process.

The Chair: That was my understanding.

Mr Bisson: As long as we can come back to section 1. That was my only concern.

The Chair: We can indeed. That's open to us to do.

Mr Bisson: I ask for unanimous consent that we're able to revert back to section 1 to move this amendment after the remainder of these amendments.

The Chair: It's not necessary, but we'll ask for unanimous consent, if it gives you comfort. Is there unanimous consent to come back to an amendment dealing with this subject matter in another form after we've considered all the other sections?

Mrs Marland: No. What we talked about was moving a motion, not an amendment. I'm happy to read his motion. I think we should do it at the end.

Mr Bisson: I'm sorry. I didn't catch that, Margaret.

The Chair: I think we have general agreement that we will come back to introduce a new motion at the end of the existing motions we have before us. I would like to point out that we have spent about an hour and 20 minutes on two motions. We have some 17 sections and at least 16 other amendments to go. We can of course sit, via unanimous consent, as long as you wish, but you should be aware of some of the realities we have in front of us. Let's proceed with the next motion, Mr Duncan.

Mr Duncan: I move that the bill be amended by adding the following section:

"0.2 Part I of the act is amended by adding the following section:

"Annual report on national safety standards

"5.2 The minister shall, beginning at the end of the fiscal year in which this section comes into force, and continuing at the end of each fiscal year for the next four years, prepare an annual report on the progress of the ministry in conforming to national safety standards and shall lay the report before the assembly if it is in session or, if not, at the next session."

With respect to that, one delegation appeared before us that said they were concerned that Ontario was not in conformity with national standards. The government has also urged the federal government to deal with national standards in a more timely fashion. We've proposed this amendment to recognize (1) that there's a need for national standards, because a number of the accidents we've witnessed in Ontario have come from vehicles outside of our province, and (2) to keep the focus also on the fact that there are national implications to all these questions.

1650

Mr Hastings: Primarily, we respond the following way. The national standards Mr Duncan is asking everybody to get on board with are in fact exceeded by the province of Ontario. On all 15 — the one relating to first aid exceeds national standards. The province of Ontario is the actor providing that exceptional leadership.

I need to point out as well that the minister has made several attempts to get the national government to deal with implementation and enforcement of national standards, and there wasn't a great deal of attention or interest paid on the part of the federal government on this issue. Therefore, we regard this particular amendment as redundant.

Mrs McLeod: I'm delighted to hear that the ministry believes we are exceeding the national safety standards, in spite of the witnesses who made presentations to our committee. Should the ministry be accurate, the report should be not only easy to do but should result in a very positive ministerial statement. I'm sure the government will want to support this recommendation so that the

evidence the parliamentary assistant has just provided can be provided to the entire Legislature.

The Chair: Further debate? Shall this motion carry?

Mr Duncan: I'd like a recorded vote.

Ayes

Bisson, Duncan, Hoy, McLeod.

Nays

Froese, Hastings, Marland, Munro, Parker, Smith.

The Chair: The next motion, Mr Duncan.

Mr Duncan: I move that the bill be amended by adding the following section:

"0.3 The act is amended by adding the following section:

"Operators with poor safety ratings

"17.2(1) The following apply with respect to an operator with a safety rating that falls below the minimum safety level prescribed in the regulations:

"1. The carrier shall not enter into a contract with the province of Ontario and any contract entered into in contravention of this paragraph is voidable at the option of the province.

"2. The carrier shall not carry any goods prescribed in the regulations.

"Offence

"(2) Every carrier who contravenes paragraph 1 or 2 of subsection (1) is guilty of an offence and, on conviction, is liable to a fine of not less than \$2,000 and not more than \$50,000."

This is one of the recommendations in Target '97 that requires legislative change. We thought we'd provide the government an opportunity to do that now rather than wait six months or so. Basically, it says that if you've got a poor safety record, you ought not to be carrying hazardous goods in the province and the government of Ontario ought not enter into a contractual relationship with you.

Mr Bisson: On behalf of the NDP caucus, I would like to give our support to this amendment. As has been said, it's a recommendation of Target '97. I've been told such an amendment would fix some of the problems we currently have. I don't know if this is true, but I've been told by someone that Muscillo, the company involved in a fatal truck accident last year, is still subcontracting to a contractor who does business for the Ministry of Transportation. Certainly this would prevent that kind of thing from happening. We shouldn't be rewarding trucking companies that don't have safe operating records and giving them government contracts. I think this would adequately fix that problem. We support that motion.

Mr Hastings: MTO has already started this policy in April of this year for all contracts dealing with the Ministry of Transportation. We're encouraging all the other ministries to follow suit. As well, the major business players in Ontario are following closely the same trend.

Mr Duncan: Then it should be easy to support. By your own report to this committee today, you say it requires legislative change. We're simply proposing to deal with it now and not have to come back to the

Legislature again. We think it makes infinite sense. If it's policy of the government already, it should be supportable by the government.

Mrs Marland: Just a point of clarification. Does "poor safety ratings" have to be clarified?

Mr Duncan: It will eventually by the Target '97 recommendations, yes, once the government acts on the regulatory proposals in Target '97.

Mrs Marland: So you couldn't implement this amendment until there is a definition of "poor safety rating"?

Mr Duncan: Mr Hastings has indicated that they've already done it, so I assume this could be enshrined in legislation.

Mrs Marland: I ask the ministry staff, do we have a written definition of "poor safety ratings"?

Mr Hastings: To respond to you, Mrs Marland, the ministry also uses the commercial vehicle operator's registration system. That's fee-based, and any shipper has access to find out what shippers have good or bad records. Furthermore, we're working on this policy and it has been implemented. It isn't necessary to do it by statute.

Mrs Marland: I understand that part, if that's what the ministry is saying. The question is, does the ministry have a definition of "poor safety rating"? If I were fighting in a court, I would be saying on behalf of my client, "That's not a poor safety rating, because you don't have a definition that defines that." If you have one that defines it, it narrows the scope of argument when I'm defending a client. That's one thing. Does the ministry staff have a written definition of "poor safety rating"? Is it on a scale of 1 to 10?

The Chair: Mrs Marland, for clarity, do you mean "poor safety rating" or "minimum safety level," as indicated in this amendment?

Mrs Marland: We're talking about "Operators with poor safety ratings." Then we're saying "an operator with a safety rating that falls below the minimum safety level." I think you need a definition for both those to make it effective.

The Chair: I just wanted to clarify that point. There are really two questions there as to what we have in terms of definitions.

Mr Hastings: We'll take that under advisement, Mrs Marland. I think it's important to re-emphasize that the CVOR is the record by which a shipper can access whether a carrier has existing sanctions against him or her.

Mr Duncan: I think it needs to be pointed out that the Target '97 recommendations call for this legislative change and also call for prescription in the regulations. If the PA is suggesting today that there are no carriers in Ontario with bad safety records carrying hazardous materials, I would submit you're wrong.

I would think the Legislature and the government in particular would want to say very clearly to the public of Ontario that if a carrier has a poor safety record, they ought not by law — not simply by regulation but by statute — be carrying hazardous goods, as was recommended by Target '97, as the government in its own report today says requires legislative change.

We can do this, the consequential regulatory changes can be made, and finally, through whatever process we establish through motion reports on this issue, it can come back to the Legislature. God forbid, given what we've heard today, that any truck with a bad safety record carrying hazardous goods gets into some kind of accident. This is an issue out there.

Mrs Marland: Where I'm coming from in asking for clarification of our staff on this is that having been a resident of Mississauga in 1979, with the famous derailment — as a result of that train derailment, which admittedly is another form of transportation, we developed federally the Transportation of Dangerous Goods Act.

Maybe I can ask an easier question. "The carrier shall not carry any goods prescribed in the regulations." I say to the ministry — I don't know who wants to answer these questions. Sometimes it's helpful if the ministry staff can sit at the table and answer questions on the record. It's hard, in fairness, for the PA to get the answers and for us to get them secondhand.

I'm reading "shall not carry goods prescribed in the regulations." That gives the government full scope in the regulations to describe what would be a hazardous good, a hazardous cargo. Am I correct?

1700

Mr Ross Burns: My name is Ross Burns. I'm senior counsel, Ministry of Transportation. Mrs Marland's question is, does paragraph 2 authorize the creation of regulations specifying the goods? I think that's what it's intended to do, and that could include any class of goods, I assume, including dangerous goods under the federal regulations.

Mrs Marland: So item 2 isn't taking any control away from the government; it gives them full scope to decide what goods will be prescribed in the act. So I don't see that we would have any difficulty with that.

To our staff, if we're already doing this, how are we doing it if we don't have a definition of "poor safety rating" or a definition of "minimum safety level"? Do we have that? As counsel, I guess you need to know that. If we're now enforcing this recommendation from Target '97, we have to have a benchmark to enforce it, I would suggest.

Mr Burns: The language has to be very precise and exact in order to enforce it, because there is an offence for the carrier, and to be an offence it has to be clear. If it's ambiguous or unclear, it's unenforceable. That's sort of trite law, but —

The Chair: If I may, there was a very specific question that was put: Is there a definition of "poor safety rating"? Is there a definition of "minimum safety level"? This isn't something you can take under advisement. Yes or no, are there definitions? That's really what she wanted to know.

Mr Burns: Not at the present time, there is not.

The Chair: All right. There are no definitions, is the answer to your question.

Mrs Marland: At the moment we have no definitions, yet we're saying we're already enforcing this.

Mrs McLeod: That was exactly the basis for my question. The amendment to the legislation, as it's worded, is

very unambiguous and is intended to be protective of government, so that should they find they have entered into a contract with a carrier that does not meet the regulations, that contract can be voided. As my colleague has pointed out, you need legislative change to have that kind of protection, to get out of a contract you may have entered into.

There's no trap here. This is to ensure that there are not dangerous goods being carried by carriers that don't meet regulations. If the government says they are enforcing something when they don't have the regulations, that's an entirely different problem, but I think the amendment still is an important one for government to have.

Mrs Marland: For example, our government would not want to be in a contract with a certain company that we've had in court over and over again, so I don't know really what the difficulty with this is.

Mr Hastings: I believe there are two considerations you have to look at. By contract law itself, where government isn't involved, that supplier and that party to the contract ensure that there are specific provisions regarding hazardous goods and other materials right in the contact between the shipper and the owner-operator of the trucking company.

With respect to the ministry, we already have the information in the CVOR and the shipper can access that on a very modest fee basis. As well, the ministry has undertaken to ensure that the policy will be carried out as recommended by — we believe the policy approach is the appropriate way to carry this item out through Target '97, not by legislation per se, as outlined by the opposition critic on this particular amendment.

Mrs Marland: My question to the parliamentary assistant is, if that is the case, why does your own document on the implementation of Target '97 say that legislative change is required to deal with this issue?

Mr Hastings: Legislative changes can be brought forth on this particular matter, but not through the Comprehensive Road Safety Act.

Mr Duncan: So it's not comprehensive.

Mrs McLeod: But it's perfectly in order to do it through the road safety bill.

Mr Hastings: When we set out to deal with this particular set of legislation, there were the three thrusts in it. We didn't get into the whole stipulation of other items, of recommendations from Target '97. I think we're mixing apples, grapes and oranges into this.

Mrs McLeod: I thought we were talking about truck safety.

Mrs Marland: Madam Chair, I'm going to suggest, with the concurrence of the mover of this amendment, that perhaps we could stand this amendment down and move on and come back to it. I think we should have a little five-minute recess, but let's keep going now so we can discuss this.

Mr Duncan: Margaret, I'd just make one point. I concur with that, but I want to point out to the government members that this particular amendment was part of my private member's bill, Bill 133. I've said on umpteen occasions that we're going to bring this amendment forward. I don't mind standing it down as long as we can

deal with it at the end of the day today. It's pretty clear and pretty straightforward.

I believe there are laws in Ontario that — Margaret or any member here before 1985 will remember the spills bill and the obligation that was passed by the Davis government, proclaimed by the Peterson government. I believe there are regulations and legislation that deal with hazardous goods, what has to be defined. I'm not an expert in that field, but I believe something is out there.

In any event, I'm prepared to stand it down and move on.

The Chair: Is there agreement? Yes.

Mr Duncan: That means we would have to stand down the next amendment, on page 5.

The Chair: Yes, because it's a related item. All right. The next motion?

Mr Duncan: I move that the bill be amended by adding the following section:

"0.5 Section 32 of the act, as amended by the Statutes of Ontario, 1993, chapter 40, section 2, and 1996, chapter 20, section 3, is further amended by adding the following subsections:

"Classes of licences for trucks

"(14.1) Regulations under clause (14)(d) shall prescribe different classes of driver's licences for the following classes of trucks:

"1. Trucks that do not have air brakes, are not bulk liquid tankers and do not have more than one trailer.

"2. Trucks that are not bulk liquid tankers and do not have more than one trailer.

"3. All trucks.

"Definition of 'truck'

"(14.2) In subsection (14.1),

"'truck' means any combination of a motor vehicle and towed vehicles where the towed vehicles exceed a total gross weight of 4,600 kilograms."

Again I take this out of my private member's bill. It provides for a graduated truck driver licensing system. Trucks with air brakes would be the first step above normal licences; trucks with bulk liquid tankers and multiple trailers would be an additional licensing step above trucks with air brakes. These are all amendments that are consequential to Target '97, and we believe we should deal with them legislatively now rather than in six months. It still allows the government the flexibility it needs with respect to prescribing regulations related to this.

The Chair: Mr Duncan, the problem with the motion you just read, and I apologize for letting you read it all the way through, is that it's out of order because it deals with a section which is not under consideration in the bill. The only way we could consider this is if there's unanimous consent of the committee. I will have to ask for unanimous consent as to whether we can consider this motion. Is there unanimous consent? There's no unanimous consent. The motion is out of order.

The next motion, Mr Duncan?

Mr Duncan: I move that subsection 41(1) of the Highway Traffic Act, as set out in subsection 1(1) of the bill, be amended by inserting "(1.1)" after — and there's a typo here; it should be — "41.1(1)" in the first line.

This is a consequential amendment to the following amendments to section 2 of the bill, subsection 41(1) of the act, which requires an ignition interlock device to be implemented after the first and second impaired driving convictions.

1710

Mr John L. Parker (York East): I'm going to suggest that we stand this down until we deal with the substance of the proposal, given that this is a consequential amendment.

The Chair: Is there agreement with respect to that? Is anyone in agreement? Very well, we'll defer this. That means we'll have to defer voting on section 1. We'll move to section 2.

Mr Duncan: I have a motion there.

I move that subsection 41.1(1) of the Highway Traffic Act, as set out in section 2 of the bill, be struck out and the following substituted:

"Reinstatement of suspended licence

"(1) Where the registrar is satisfied that a person whose driver's licence is suspended under clause 41(1)(f) has completed the prescribed assessments and remedial programs that are applicable to the person, if any, and meets the prescribed requirements that are applicable to the person, if any, the registrar shall reinstate the driver's licence upon the expiry of the suspension, subject to any other suspension under this act, and subject to the condition that the person not drive a motor vehicle on a highway for one year unless the motor vehicle is equipped with an ignition locking device in accordance with the regulations.

"Same

"(1.1) Where the registrar is satisfied that a person whose driver's licence is suspended under clause 41(1)(g) has completed the prescribed assessments and remedial programs that are applicable to the person, if any, and meets the prescribed requirements that are applicable to the person, if any, the registrar shall reinstate the driver's licence upon the expiry of the suspension, subject to any other suspension under this act, and subject to the condition that the person not drive a motor vehicle on a highway for three years unless the motor vehicle is equipped with an ignition locking device in accordance with the regulations."

This amendment adds additional restrictions to the reinstatement of licences after the first and second impaired convictions. After the first conviction, there is a one-year licence suspension. This amendment adds a one-year period following the suspension where the driver must use an ignition interlock device. After the second conviction, there is a three-year licence suspension. This amendment adds a three-year period following the suspension where the driver must use an ignition interlock device.

We had ample testimony here and were presented with documented studies that say the ignition interlock device works. It works particularly with chronic offenders. We applaud the government's initial bill and the member for Mississauga South on all her initiatives. This goes a step further, basically tightens it up. We found the evidence presented with respect to the effectiveness of these

interlock devices compelling and would urge the adoption of this amendment.

Mr Hastings: Au contraire.

Mr Bisson: Au contraire, Madam Chair?

The Chair: Vive le français.

Mr Hastings: The documented evidence Mr Duncan alludes to is somewhat premature, particularly the study from the University of Maryland. Furthermore, we can do this proposal by regulation, as set out in Target '97. It's not actually part of the comprehensive road bill to start with.

Mr Duncan: Target '97 deals with truck safety, not drunk driving.

Mr Hastings: But they're both combined in terms of driving behaviour.

Furthermore, it seems to us that when you add the ignition interlock in the context in which Mr Duncan is proposing it, we weaken the compliance provisions, the driving suspensions and other related matters which are part of the whole set of strategies proposed in the legislation. We believe you create an incentive, in effect, for the interlock proposition and weaken the suspension of licensing, which is part of the bill to start with.

Furthermore, in our estimation, the studies need to have a longer sustainable time frame to prove the benefits of having ignition interlock proposed for first and second offences. We believe the combination of what we already have in the bill, plus the other related provisions, particularly those focused on driver suspension, are more than sufficient to be a very serious deterrent to aggressive drivers in Ontario and anybody else coming from other jurisdictions.

Mrs Marland: I have a question of Mr Duncan, because I haven't found that part in the bill yet. Dwight, is your amendment to apply to first convictions of drunk driving?

Mr Duncan: What it does, Margaret, is that after the first conviction, there's a one-year licence suspension. This amendment adds a one-year period following the suspension where the driver must have an interlock device. We base this recommendation on the testimony that came forward that suspension, coupled with the interlock program, really is an effective deterrent. We were also presented with I believe three studies, and one of the studies confirmed that.

While we applaud and certainly support what the government has done, we think this takes it a step forward. We think we're being quite consistent with the government's position. We've just added something based on testimony that came forward. We look forward to bringing in these provisions based on the evidence that was presented around the effectiveness of suspension combined with an interlock program.

Mrs Marland: Essentially, what you're moving here is what John Bates came in to ask for.

Mr Duncan: Was it John Bates? Let me get my notes out. Is that who it was?

Mrs Marland: Yes. Mothers Against Drunk Driving is John Bates. Can you take me to the page number in the bill? I'm trying to find it.

Mr Duncan: It is section 2 of the bill, subsection 41.1(1) of the Highway Traffic Act.

Mrs Marland: Page 3 of the bill.

Mr Duncan: Yes. "The act is amended by adding the following section: 41.1" — I have struck that out and reinstated sub (1). It's at the top of page 3, Margaret.

Mrs McLeod: I appreciate Mrs Marland's interest in this. I know her response to the presentation from Mothers Against Drunk Driving was similar to ours, which is one of the reasons the committee requested the studies that were tabled for us, and I appreciate the fact that those studies were made available on short notice.

I'm a bit puzzled by the parliamentary assistant's dismissal of the amendment on the basis, as I understood what he was saying, that lengthy suspensions are sufficient to address the problem. I don't pretend to be an expert after having had only a short time to look at the studies, but my impression both from reading the studies and from reflecting on the evidence before the committee was that there is no evidence that lengthy suspensions are effective in avoiding accidents related to drunk driving; in fact, the longer suspensions may lead to increased numbers of drivers driving without a licence, which actually adds to their danger on the road.

The research seemed to suggest that when you combine moderate suspension terms with an ability to get reinstatement provided you have an interlock device on your car, it results in a very significant decrease in recidivism in terms of drunk driving charges. I had hoped the government was prepared to look at the evidence that was presented to us in the research, which suggests moderate suspensions with an interlock device as an incentive for reinstatement, so you don't have drivers driving who are suspended and don't get caught until they kill somebody.

Mrs Marland: I guess I'm going to have to clarify where I'm coming from at this point. I'm having a great deal of difficulty, because having been the proponent of doing something to stop people drinking and then driving in this province for almost four years now — I've had two private member's bills on the subject — it's very difficult for me not to wholly embrace anything that improves the situation in terms of where we are today. The difficulty for me is that I may well be 100% in favour of this amendment, the next amendment or any section that tightens up the drunk driving, but as I just said to you, Dwight, a few moments ago, take me to where this fits in with the bill. That may sound absurd, but what time did we get these amendments?

The Chair: They were required to be filed by 1 o'clock. I believe they were well in hand early in the morning.

1720

Mrs Marland: I'm not criticizing that they were late. I'm just saying that in any case we got them today, and that's all been part of the process. It's not a criticism. I know they weren't late, but the point I'm making is that since these were filed or, counter to that, it would be since any of ours were filed with you, and I think we only have two anyway, there's been absolutely no time for me to sit down with these amendments and go through them in combination with what is already in the act.

I think the position I'm going to take very clearly is this, and it is a little bit critical, that this act as it stands is going to be the toughest legislation in Canada to combat drunk driving. There may well be very feasible amendments, and I say that with respect to the critic for the Liberal Party, and there may well be something that Mr Bisson is bringing on behalf of the New Democratic Party. I don't see Bill 138 as being the end of the road, and I'm not using that example to be funny. I see this act as being historical. It's making history, not only in Ontario but in Canada. Indeed, we only have about four or five out of the number of states south of the border that have anything tougher than this.

My dream would be that we have the toughest in North America, because whatever it takes to get the carnage stopped, we need to do. Now, where I'm not going to be very pleasant is to suggest that for all of the years that I sat in opposition, we did not have similar legislation from either of the previous governments. The good thing is that I suppose, other than Lyn and Gilles, you don't have to defend that, Dwight, because you weren't here.

But the point is this: At any time in the last 10 years, once we found that the increase in repeat offenders in drunk driving — we've got a huge irony when we're dealing with the subject of drunk driving, by the way, and that is that the number of people who drive drunk is actually declining, but what is increasing is the number of people who drive drunk, are convicted, do it again and are convicted again. We have 10, 15, 17 convictions for one person. We know very clearly that the problem is not even so much the single conviction. We know that when I started my drunk driving bill, the repeat offenders were 59% of 30,000 drunk convictions in a year. Today that 59% has gone up, tragically, to 66%. There's no denying that the repeat offender is the problem.

It may well be that an ignition interlock system should be part of the combination of the penalty to that first-time conviction. If I had my druthers, I would have zero tolerance. The first time you're convicted of drunk driving, you lose your licence forever, but I couldn't get support for that. I moderated my bill. When I say I couldn't get support for it, it wasn't only in my caucus. I did a lot of work in the other two caucuses to see what I had to write into my private bill that would get through the House as a private bill with all party support.

When I tabled the first bill in, I think it was, October 1994, if there had been a real commitment to resolving this — and I say this with respect, Gilles, not as a personal attack on you because you happen to be the representative here. What I really wanted in October 1994 was for my bill to go through or, I didn't mind, turn it into a government bill, the same thing that's happened now with our government. Whatever you do, just take it, run with it and pass it in time to be introduced and to be implemented in the RIDE program for the Christmas season that year. Not only did that not happen — of course the House rose at Christmas, it was never called back and then Premier Rae called the election for June of that year.

What I would like to suggest is, and I'm trying to do this with sincerity and diplomacy frankly, I don't want to deal with amendments that — I don't how many people

sitting on the committee today have had time to read these. We've been in the House in question period —

Mr Duncan: And so have I.

Mrs Marland: Yes, so have you. Part of the problem is that I know we're compressed with time now. I know it isn't easy, but what I'm suggesting to you is, I'm willing to vote for Bill 138 as it sits because I know what's in the bill. I don't know whether the amendments are in the right place. I don't know if they're as strong as they need to be or could be stronger. I'm not prepared to gamble at this time. I'm prepared to support the government bill which implements most of my private member's bill because I know that subject inside out.

I know there's a question about ignition interlock systems, and I know there are different systems. I know that all of those are possibilities. I also recognize that they're all possibilities with regulations. If we go through and pass this bill today, as I said a few minutes ago, it's not the end of the road. Why could we not just go through the bill and if there are major concerns that something is wrong with the bill, we deal with that, but at least get the bill through?

Who knows? If my bill had been passed three years ago, at 500 a year on average who are killed by drunk drivers, we might have saved 1,500 lives. But it didn't happen. I don't want to sit here and worry about how many people might die in the next few months if we don't at least go with what we've got and then look at tightening down the screws. I'm happy to tighten down the screws on drunks who drive.

The Chair: I just want to recap a few things. At the moment we have deferred three of the six motions that have come before us. We have another one that is going to come back in some amended form. We've only dealt with two motions so far. We have quite a number yet to do. I should tell you that we have a vote at five to 6; we shall have to recess for that purpose. I will require from you some expression as to whether we can get unanimous consent to continue afterwards. Otherwise, you have 20 minutes to finish this whole bill.

The other thing I'd like to point out is that we could ask the House leaders to allow us to sit tomorrow to continue the work we've started today, which would give people an opportunity to review the amendments which have been put before you and maybe alleviate some of your concerns. Those are the options we have before us. I thought you should know before we start.

Mr Duncan: Just in response, I really wish we had more time to deal with this. I wish we wouldn't have had that one bill introduced and then pulled. I wish that I had the confidence that something will come up later, but based on the —

Mrs Marland: But that bill didn't have the drunk driving in it.

Mr Duncan: I agree, Margaret, but if I can finish, I didn't set the rules of this committee. You know what it was like in opposition. We were able to write these amendments with the assistance of legislative counsel. We heard testimony. We should be prepared to sit till midnight tonight, if the House is sitting, to review these things. You can vote them down. As I've said right from the beginning, we will vote for this bill as it stands.

1730

We have simply tried to incorporate some of our own findings, the findings we've heard in this committee about the changes. We've pulled out the studies now that confirm the evidence that was presented to this committee. I believe that backbenchers like myself and others have a responsibility to bring forward these amendments. I would hope, given the spirit of cooperation we've acted in with the government, that they would give serious consideration. We have proposed these amendments in good faith according to the rules that were established and agreed to by this committee. We accepted one or two government amendments today. I will be supporting, certainly, the major amendment the government has put forward. I had a chance to read it in the context of the bill.

I guess perhaps what's unusual here is that I'm saying to you, "Yes, I will vote for this bill." I've said that; our party has said that. It's an unusual circumstance. We have tried to leave the political hyperbole outside the door in terms of this particular bill, in terms of the amendments we're putting. We're not being critical of the government for not bringing them forward. The government brought forward a good bill.

We've heard testimony. We've introduced some amendments we think are effective. We're going to support the amendment the government has brought forward on school bus safety, in good faith again. I wish we had more time to discuss these too. I wish we weren't condensing things as quickly as we are.

The subcommittee, which was attended by representatives of the government party as well, agreed to this process, and my understanding is that we agreed that in this time frame and given the bill we have before us, we could accommodate amendments. I'm putting these amendments forward because I think they're good amendments to the bill. That's not to say that I'm critical of the bill. I'm going to vote for the bill. I'll speak in favour of the bill, as I did earlier. These changes, I think, make the bill better. Unfortunately, it appears as though most of them —

Mrs Marland: But if we don't get finished today, we lose it now.

Mr Duncan: Well, we can sit till midnight.

Mrs Marland: I'm on House duty.

Mr Duncan: So am I.

The Chair: Mrs Marland, we have two options which I've laid out. Could we speak to that just very briefly so that we can move on. Mr Bisson, you're next on the list. Is that what you want to speak to?

Mr Bisson: No, I wanted to speak back to the point that was made by Mrs Marland.

Mr Klees: I'd like to speak to it.

The Chair: All right, Mr Klees. What we're speaking to is having unanimous consent to go beyond 6 o'clock or asking the House leaders to allow us to reconvene tomorrow, or both, for that matter.

Mr Klees: First of all, with regard to asking the House leaders to reconvene tomorrow, I would suggest that may present serious difficulty. We all have other commitments and obligations and were not counting on this committee

sitting tomorrow, so I certainly wouldn't be in favour of that.

With regard to this particular bill, certainly if need be, I would be prepared to reconvene, although I can't personally be here beyond 6:30 today, again because of other commitments. What I would like to see us do — and I share Mr Duncan's concern about the amount of time. It would have been helpful to have some additional time to work through some of these, but it's not the end of the day from that standpoint. I think what we have to recognize, as a committee, is that there will be opportunities. The minister has already committed to come back on this issue and that some of these matters can be considered in a subsequent legislative package. What I'd like to see us do is be able to close this off before five minutes to 6 when this bell rings, on the understanding that the government amendment that Mr Duncan suggested he would be supporting would be included in this piece of legislation.

Mrs McLeod: I understood from what you said earlier that there was no time allocation on this.

The Chair: That's right.

Mrs McLeod: There is a de facto time allocation if there's not going to be an agreement of this committee to extend the hours. Mrs Marland has just had a lengthy amount of time to speak on the issue of the ways in which we deal with drivers who are driving while drunk. It's an issue which is of great personal concern to me as well, and I really want an opportunity to have some further discussion of it so that it doesn't simply die, to be picked up at some future day.

There is a further issue that we haven't dealt with beyond the truck safety and the drunk driving, and it's that the government decided to make this an omnibus bill and include all of this in one bill. The issue is school bus safety. Mr Hoy is here, as is Mr Froese, because they have both done extensive work as private members in order to deal with the issue of school bus safety. I think it's absolutely essential that we have the time in committee to give due consideration to the recommendations they've brought forward, because I think we all share their concerns.

I think the government has put us in a position where there is a great deal of substance that we have to have some time to discuss tonight, and I would ask that this committee be prepared to extend the hearings past 6 o'clock. I'm concerned about an agreement with the House leaders to reconvene tomorrow because if that agreement wasn't forthcoming, we will then have lost our opportunity to speak. So I hope that whoever can resume after 6 o'clock will come back so at least we have some chance to speak to the issues.

Mrs Marland: I could come back after 6 if you didn't call quorums, because I'm on House duty after 6.

Mrs McLeod: You've got a lot of members over there, Margaret.

The Chair: Could we then have unanimous consent to extend beyond 6 o'clock?

Mr Bisson: Unfortunately, after 6:30, I can't. There's a constituent from my riding who's being awarded by the Lieutenant Governor this evening. I have to be at that function. I want to be here to deal with what is an

important bill and, as the critic, I wouldn't be able to be here for the biggest part of the amendments. It's unfortunate, but it's just where we're at.

Mr Klees: I think those awards are about an hour in length, and if Mr Bisson could come back to that, I would certainly support that, that we extend the hours on the understanding that we close this off before the end of the day.

Mrs McLeod: I think we recognize that we may not have a quorum at committee, but this committee doesn't require a quorum to at least continue to have a discussion.

The Chair: That's right.

Mrs Marland: Could we have agreement on that point then, that the committee would continue even if there wasn't a quorum in the committee? If I have to be in the House, I wouldn't want the committee to fail for lack of a quorum.

Mr Bisson: The only thing I'm concerned about is I want, at the end of the bill, to introduce by way of unanimous consent a motion that we talked about earlier, and if that happens to happen within the time that I'm here — it's like, tough luck. I certainly don't want to be in a position where we haven't had an opportunity to move forward on what was I think a consensus on what we need to do about reporting back to this committee the work done around Target '97. I just don't want to miss that opportunity. Basically I've got to be in two places at the same time. If a constituent calls, that's where I've got to be.

The Chair: Your concern is with one specific proposal?

Mr Bisson: Well, all of them are equally important, but I'm saying one in particular I might get —

The Chair: Could we have an agreement, if there is unanimous consent, to go beyond 6 o'clock to deal with the issue that Mr Bisson has raised first so that he can attend his other duties? Would that be agreeable to everyone? Yes.

Mrs Julia Munro (Durham-York): A question of clarification: I thought the intent there was to deal with it at the end.

The Chair: That's right, because we were looking at a question of time, but we're now looking at whether we could prioritize it in order to facilitate Mr Bisson's participation and still deal with everything at once.

Mrs Munro: I understand the commitment that Mr Bisson has, but I guess my concern is simply the logic of having made the decision to put it at the end.

The Chair: The logic would actually be to continue as long as we could, but we're not in exactly a logical situation at the moment. This committee can do anything it wishes, Ms Munro, by unanimous consent.

Ms McLeod: Is this a new point? Because I really want to get to the substance.

Mrs McLeod: Yes, it is. It's to do with the issue of a quorum. I made the statement that I didn't think this committee needed a quorum for discussion, but I think it does require a quorum for votes. So issues of the motions that might be placed and so on might be appropriately dealt with if we didn't have a quorum, but I think we

need to keep a quorum for the issues of the amendments. I'm not sure if that's true on motions.

Mrs Marland: Or can she see a quorum.

The Chair: It is of course up to the members to raise the issue of a quorum at any particular time.

Mr Duncan: I will give you the undertaking of the official opposition that we will not play games on quorum calls in this committee, and we will not play a game where we try to force a vote when there are not enough government members present.

The Chair: With those stipulations then, that the issue of a quorum is as agreed upon and that we deal with Mr Bisson's concern as the first item after we come back after the vote, do we have unanimous consent to sit beyond 6? Agreed? Terrific. Fine. We now have 10 minutes. We're still on page 8 and the amendment to section 2. Further debate?

1740

Mrs McLeod: I wanted to just make a comment and I won't make it at length. This is an issue that concerns me significantly. I guess, Margaret, I'm a little bit distressed that you would need to go into a history lesson in order to seemingly defend following the government's direction that this amendment is not to be supported, because challenged on the history, I look back to having been part of a government which introduced some of the toughest fines we've had in dealing with drunk driving, and that led to the development of designated driver programs. I think that's recognized as being one of the significant progressive pieces in dealing with drunk driving. I have no need to go back and say, "Was that enough?" I think this is progressive and I think at each step along the way we want to make as much progress as possible.

One of my concerns and one of the reasons I'm very anxious that we not simply ignore the issue of the interlocking device, I didn't know about the interlocking device until I was sitting at committee here last week. It concerns me when I look at the studies and I see that this is not new. There's a longitudinal study that was done out of Hamilton county in Ohio where the study, at the end of the longitudinal period of assessment, was produced in 1992. My reason for concern, and if this sounds critical, so be it, is that the ministry at no point has even brought forward to people like yourself, who have clearly been concerned about the issue of drunk driving —

Mrs Marland: I've talked about ignition interlock systems for four years. I knew about them. I've had them demonstrated to me.

Mrs McLeod: Then what distresses me — I will also support this legislation, as I supported your private member's bill, but from a personal perspective, one of my daughters, along with several of her friends, was involved in a very serious car accident where the driver was drunk, was driving with one arm and was under suspension. Lengthy suspension periods would not have done anything to prevent that man being on the road.

When I see research that suggests that lengthy suspensions may in fact increase the numbers of people who drive without a licence and without insurance, it worries me, even though I'm going to support the bill. When I see that there is another possibility of combining the

interlock device with a more moderate suspension and that the recidivism rate is so much less for that, I don't want that issue to die. I don't want it to just be ignored for another four or five years. It has been out there for some time. Nobody has dealt with it in this province that I know of.

I just believe we've got to find some way, if this amendment isn't acceptable because it comes too quickly, of making a commitment that we will look at whether this is a better approach than simply having lengthy suspensions, because I don't any more of those accidents with people who are under suspension and figure they're never going to get their licence back anyway, so they might as well drive without one.

Mr Bisson: Just very quickly, the member for Mississauga South in her comments, and I'm not going to paraphrase this correctly, so correct me if I'm wrong, said that she didn't want to hold this bill up with regard to the drunk driving part of it. I want to assure you, from the NDP caucus, that we have no intention of doing that. We think this is important legislation and we wholeheartedly support it.

The second point, I must say, is that when your private member's bill came forward in October 1994, there were a number of members on the government side, along with some of the opposition members, who supported your efforts and, quite frankly, we ran out of legislative time. That brings us to the point of where we are here today. A lot of us are worried that some of the recommendations of Target '97 may have the same fate, that if there's not enough legislative time for the minister to deal with them, we won't get that done. I just want to make that point.

The Chair: Any further debate? Then I'll put the question. All in favour of the motion? Opposed? The motion is defeated.

Mr Duncan: That defeats the previous and then the next amendment as well that I have presented.

Mr Bisson: Seven is gone?

Mr Duncan: Seven and nine.

The Chair: Subsection 1(1), subsection 41(1), is that the one you are saying?

Mr Duncan: Yes.

Mrs McLeod: Madam Chair, given the fact that we are entertaining motions that relate back to defeated amendments, could I ask permission to bring forward a motion that would allow this issue to come back to this committee, the issue of the interlocking device and the research that has been done on that to be brought back in report to the committee at a subsequent date by the ministry, along the same lines as the motion that was discussed earlier?

The Chair: We are free to do that at any time.

Mrs McLeod: I don't need to give notice?

The Chair: No. With what Mr Duncan has just said, could I ask for a vote on section 1, because we're not going to be dealing with the deferred amendment. We are voting now on section 1. All in favour of section 1 as in the bill? Opposed, if any? Section 1 is carried.

Section 2: All in favour? Opposed, if any? Section 2 is now carried.

Mr Bisson: I just — no, it's okay. Forget it.

The Chair: We had two amendments to section 2 which did not pass and therefore I called the vote on section 2.

Very well. We move on to section 3. Any amendments? Any debate on section 3? All in favour? Opposed, if any? Section 3 is carried.

Section 4: Shall section 4 carry? Anyone opposed? Carried.

Section 5: Amendments? All in favour? Opposed? Section 5 is carried.

Section 6: All in favour? Opposed? Section 6 is carried.

Section 7: All in favour? Anyone opposed? It's carried. Section 8.

Mr Duncan: I have an amendment to section 8.

The Chair: That's on page 10? That's section 8.1, so that would come after section 8. All in favour of section 8, as written? Opposed? Section 8 is carried.

Section 8.1.

Mr Duncan: Madam Chair, I move that the bill be amended by adding the following section:

"8.1 Part IV of the act is amended by adding the following section;

"Review of truck driving schools"

This is an amendment to section 58.1 of the Highway Traffic Act.

"58.1 (1) The Minister of Education and Training shall review the Private Vocational Schools Act and its regulations in order to ensure that a truck driving school may not be registered under that act unless its courses of instruction and examinations are designed to meet a minimum standard of competency for truck driving.

"Annual report

"(2) The Minister of Education and Training shall, beginning at the end of the fiscal year in which this section comes into force, and continuing at the end of each fiscal year for the next four years, prepare an annual report on the progress of his or her review under subsection (1) and shall lay the report before the assembly if it is in session or, if not, at the next session."

This amendment would require the minister, as it says, to review the implementation of the PVSA as it applies to truck driving schools to ensure that they meet a minimum standard of competency. Members of the committee will recollect we had presentations to that effect here.

One of the recommendations in Target '97 was that the truck driving schools be required to have more formal requirements as to the certification they offer drivers based on real world competencies. For example, practising driving a car with a boat trailer attached should not be acceptable training for a large truck-trailer experience requirement. The PVSA already provides the Minister of Education with broad regulatory authority to control how driving schools train people, including what equipment is used.

The amendment is designed to compel the Minister of Education to use this regulatory power to prescribe the methods and equipment that truck driving schools use. These changes have been supported by the Truck Training Schools Association of Ontario.

The Chair: Debate? Mr Hastings.

Mr Hastings: It's clearly outside the purview and scope of Bill 138. We'll deal with these matters under separate legislation as set out through Target '97.

Mr Bisson: I think the parliamentary assistant is suggesting that the amendment is out of order.

The Chair: That's for the Chair to decide.

Mr Hastings: I would never make that comment.

The Chair: This is not out of order.

Mr Bisson: No, that's exactly why I was raising the point.

Mr Hastings: It is an incorrect inference.

Mr Bisson: Again, we heard a number of submissions. I can think of two particular submissions that were made to this committee that spoke directly to this. I think this is a friendly amendment that tries to deal with what is a real problem when it comes to how we train drivers in this province. I think it is an amendment that is worthy of support, and our caucus would do that.

The Chair: Further debate? Very well, we'll put the question to a vote. All in favour of this amendment? Opposed? The motion is defeated.

Section 9: All in favour of section 9? Opposed, if any? Section 9 is carried.

Section 10.

Mr Duncan: I have an amendment to section 10 of the bill.

I move that section 82.1 of the Highway Traffic Act, as set out in section 10 of the bill, be amended by adding the following subsection:

"Notice of damage to goods

"(18.1) If the goods that are removed under subsections (15), (16), (17) or (18) are damaged as a result of being removed or as a result of a delay in the trip caused by the inspection or by the order to impound and suspend, the operator shall immediately notify the shipper and intended recipient of the goods of the damage."

This amendment, members of the committee will recollect, was requested by the Canadian Industrial Transportation League and is designed to ensure that when carriers have their vehicles impounded for the 15-day truck licence suspension, they notify the shipper and intended recipient of the delay.

Mr Hastings: The MTO's position is that this particular amendment is redundant. Furthermore, this whole kind of relationship between the operator and the shipper is carried out through commercial law. The MTO sees no strong rationale for getting involved in items that are purely of a private nature between the parties to the transaction under commercial law. Furthermore, it's enhanced in their own particular contracts as would be dealt with through contract law.

Mrs McLeod: Perhaps we could cut down on the length of time our committee is taking if I could just ask the parliamentary assistant whether MTO has concluded that almost all the evidence presented to the committee is either redundant or false.

Mr Hastings: Certainly with respect to this particular amendment, we believe that is redundant. No, there is clearly material that has been brought forward by deputants in the three days of hearings that has significant policy ramifications and we will ensure that it is undertaken in additional legislation as is required in the

example of the previous amendment dealing with the Private Vocational Schools Act.

We will deal with these matters and they will not be put under the carpet, as you earlier alluded to in comments about an hour and a quarter ago, that somehow or other media exposure that I mentioned would be one of the key items for ensuring that we do carry out the implementation, either through legislation, through policy changes or through regulation.

Mrs McLeod: You can be sure, Mr Hastings, that we will attempt to make sure that this issue does not go away from either the media or the public attention. But in the course of the last period of time you have indicated that we are exceeding national safety standards, which is directly contradictory to evidence that was presented to the committee. You've indicated that the ministry is already enforcing the carrier of dangerous goods provisions, even though there has been testimony by your own counsel that no regulations exist for you to be able to enforce that policy, and you have now indicated to us that this particular recommendation, which was requested specifically by one of the presenters at the committee, is redundant and unnecessary. Therefore I'm coming to the conclusion that anything which was presented to the committee has been dismissed by MTO and that you just might as well give us a thumbs down and then we can at least make our statements and move on quickly.

The Chair: Mr Bisson?

Mr Bisson: The point has been made.

Mr Pat Hoy (Essex-Kent): I agree to some extent that the public will be watching and be that very watchdog over this legislation and this government as it pertains to this bill. However, it may be that the public will become more aware after some catastrophic occurrence has happened, and that's not what we're looking for.

My comment in regard to this motion is I'm thinking of perishable goods where a vehicle has been impounded and there may be refrigeration required, and I mean in a constant way. There may be the simple fact that it's not moving from point A to point B swiftly enough that it would be unloaded into a place where it would be put in a proper climate. I really wonder about stating that this is not something to worry about. I think this is a good motion and protects the people who are using the carriers and their goods within.

The Chair: I propose that we defer further debate on this until after the recess. May I thank all of you for your sincerity and your willingness to sit beyond the appointed hour to get this done. I think it's marvellous. We'll reconvene immediately after the vote.

The committee recessed from 1755 to 1811.

The Acting Chair (Mr Pat Hoy): I welcome the members back. We had agreed that we wouldn't need a quorum and that there would be more government members here at the time of any discussion or vote.

We are on section 10. We were speaking in regard to damages resulting from delay. Were there any other speakers to that motion? Seeing none —

Mr Duncan: Is there another amendment on section 10?

The Acting Chair: — I'll call the question on section 10.

Mr Duncan: No, on the amendment.

The Acting Chair: On the amendment. Agreed? Opposed?

Mr Parker: Where are we?

The Acting Chair: It's number 11 in your package, section 10 of the bill, subsection 82.1. All those in favour? Those opposed? Defeated.

Can we have agreement to pick up on a motion that Mr Bisson was going to put forth and accommodate him and his time schedule here this evening where he feels he might have to leave early.

Mr Bisson: Where's Margaret?

The Acting Chair: We have copies. Can we have unanimous consent to move back to a motion that deals with section 15.1 of the bill?

Mr Duncan: We are going to deal with Mrs McLeod's as well. Are we going to deal with that later in the evening?

The Acting Chair: Yes.

Mr Duncan: Did we agree to that?

Mr Parker: The agreement I made was that we would go straight to Mr Bisson's amendment now.

The Acting Chair: Yes.

Mr Parker: That's the only agreement that I'm aware of.

Mr Duncan: But we had said earlier, Mrs McLeod has a motion to bring to the committee at the end of business.

Mrs Munro: It's at the end.

Mr Duncan: At the end, yes. Is there agreement on that?

The Acting Chair: There is agreement to do Mrs McLeod's but not at this time, but in order to deal with Mr Bisson and his time schedule we will deal with this one now. Agreed? Copies are coming.

Mr Bisson: I take it we have unanimous consent because of that prior arrangement, and I read:

"I move that section 15.1 of the bill, section 228 of the act, be amended by adding the following section:

"15.1 The act is amended by adding the following section:

"Report to assembly

"228(1) Every six months after this section comes into force, the minister shall report to the assembly on the progress made on implementing the recommendations of the Target '97 task force on truck safety.

"Same

"(2) The report shall be given to the standing committee designated by order of the assembly."

Mrs Marland: Are you placing a motion?

The Acting Chair: Mr Klees wanted to make a comment first.

Mr Klees: I'll speak to the amendment. I cannot support this amendment. I was certainly prepared to entertain a motion of this committee that would be a direction from this committee requesting that the minister report back, but as I had indicated previously in my remarks, I didn't believe it was appropriate for that to be put forward as an amendment to this piece of legislation. I think it's appropriate for this committee to express its will to have a report back from the minister and I believe my colleague Mrs Marland has prepared a motion that would speak to that.

Mr Bisson: Just to expedite it —

The Acting Chair: I have Mr Duncan first.

Mr Bisson: If I can get a copy of her amendment, then that might expedite things.

Mr Duncan: While I support the thrust of this amendment and will vote in favour it, I must say the government was quite clear earlier today in suggesting that we deal with a motion at this point in time, not a further amendment to the bill.

Mrs Marland: Because I thought we had agreement that I would place the motion, Gilles, I went and drafted the motion.

Mr Bisson: That's fine. Let me read it.

Mrs Marland: It's quite straightforward.

Mr Bisson: Can I just have two minutes to read it, please. I just got it.

Mrs Marland: Mr Chair, do you want me to read it into the record so we know what my motion is?

The Acting Chair: We have one here now and perhaps if Mr Bisson has a chance to read it —

Mr Bisson: Just give me two minutes, because we have to deal —

The Acting Chair: — in regard to his own, and I'll grant him a few seconds to read it, then we'll deal with his, depending on what he might decide.

Mr Bisson: Okay. I won't debate it at any length. I understand what the member for Mississauga South is doing. I've only moved this amendment based on the discussion that we had earlier in the committee and ask members to support this amendment. If not, the next one.

The Acting Chair: Any other comment on section 15.1 of the bill?

Mrs Marland: My question to Mr Bisson is, because we had agreement that I would move the motion, will you withdraw your amendment?

Mr Bisson: That's fine. I'll withdraw the amendment, under the understanding that you're going to be moving this amendment.

Mrs Marland: I am going to move that motion.

Mr Bisson: I agree to withdraw.

Mrs Marland: So your amendment has been withdrawn and you'd like me to move my motion?

Mr Bisson: Yes. Just to be clear for the record, I withdraw the amendment I just put forward, with the understanding that the member for Mississauga South will move a similar amendment of her own in order to accomplish basically the same thing.

Mr Klees: Point of order, Mr Chair.

Mr Bisson: No, no, it's fine.

Mrs Marland: He's saying amendment, but it's a motion.

Mr Bisson: It's a motion. It comes out to the same thing.

Mr Klees: I just wanted it to be clarified that this is not an amendment, it is a motion.

Mr Bisson: It comes to the same thing.

Mr Duncan: We will support this motion. We regret that the government has consistently today lost its nerve when it comes to truck safety and drunk driving safety. We will be voting for the bill. We will vote for this motion.

We will be debating the bill again back in the House, but given that the government wasn't prepared to do what

we think would have been a more effective process, a more cost-effective process and a process that could in fact work, we will, in an effort to again demonstrate our commitment to road safety, and recognizing this bill as a significant step forward, support the motion, though we will continue to advocate that we wish the government hadn't lost its nerve on road safety and on drunk driving and had done what expert evidence has told us to do.

That being said, we support the motion and applaud the member for Mississauga South on her efforts in the past on drunk driving and understand that she too and the government members of the committee are anxious that the regulatory changes that are contemplated in Target '97 be reviewed by the public in some form.

The Acting Chair: I wish to interrupt just for a moment —

Mrs Marland: I think I need to read the motion into the record in order for us to discuss it.

The Acting Chair: That's right. First of all, we need unanimous consent to bring about this particular motion. Agreed. Then we would ask you to read it into the record.

Mrs Marland: I will move the motion and then speak to it and we'll take Mr Duncan's comments as read.

I move that the committee require the Minister of Transportation or his assigns to report back to this committee within 12 months of the proclamation of the bill for the purpose of giving a report on the status of the Target '97 recommendations' implementation and/or regulatory changes to address those recommendations.

I would say to the critic for transportation, having been a critic for 10 years, that I realize there are some things you have to do and some things you have to say, but I feel I must say in response to your comments that there is no way this government has lost its nerve this afternoon and voted against your amendments. We have not lost our nerve. In fact, what I will say with great pride is that we have had the nerve, the courage, the commitment to bring forward Bill 138.

In this bill we will have, as I said earlier this afternoon, the strongest remedy to drunk driving that exists in Canada today and in the majority of the United States, and we have done this within two years of being given our mandate. We did not have similar legislation from the former NDP or Liberal governments in the five years each of their mandates. I would not have been so political except in response to my friend.

1820

Mr Bisson: Or the last 42 years of Tory government.

Mrs Marland: In the 42 years that we were the government before that, how you handled the subject of drunk driving was not quite the way it could have been handled in the last decade.

I'm very proud to support the bill. In fact my motion is saying that obviously we are committed to Target '97 recommendations. I know when the minister comes back and reports you will be pleased. It may well be that we will have further amendments to the Highway Traffic Act to provide the remedy to the killing and the maiming that takes place because of people who drink and drive and the hazard of the unsafe operation of truck transportation in this province.

Mr Parker: Virtually everything I was going to say on this point has now been said by my colleague from Mississauga South, so I am happy to waive my time.

Mr Bisson: I have two points. The first one is, with all due respect to the member for Mississauga South, to make the comment that nobody ever did anything on drunk driving for the 10 lost years of the NDP and Liberal regimes and to insinuate that the problem changed during the time that we were the government and wasn't an issue for the 42 years that you were the government before then I think is making a bit of stretch and being a hell of a lot more partisan than you need to be.

I'm really, really tired of listening to that rhetoric, that all of a sudden, in the last 10 years of the Liberal regime and the NDP regime, everything had changed, all the stars had lined up and it was an issue that we had to deal with drunk driving then, and because the governments didn't it was a failure, but for the 42 years of Tory regime before that, it wasn't an issue. Hooey, Margaret.

Mrs Marland: We established the countermeasures office in the early 1980s.

Mr Bisson: There were also initiatives by both the Peterson and the Rae governments on the issue of drunk driving. The RIDE program was instituted. There was a lot of money spent on educating the public on drunk driving which has been very effective.

Mrs Marland: We initiated the RIDE program.

Mr Bisson: There was increased financial support from both the Peterson government and the Rae government when it came to the whole issue of increasing awareness of drunk driving, and I'm tired of getting that rhetoric, quite frankly, Margaret.

On the second point, we were dealing with Target '97 and we got into drunk driving. Now I get back to the point of the motion. I'm glad that you've brought forward this motion in order to get the minister to come back here. Maybe you didn't want it standing in the name of one of the opposition parties. For whatever reason, it's here. We're going to say, "Let's not be partisan about it." The issue is truck safety, the issue is safety for the motorists of Ontario, to make sure that we try to minimize as much as humanly possible the tragedies that are on our highways because of the unsafe conditions we have on our highways.

I will not be partisan and I will support your motion even though the government didn't see it in their way to support either the NDP motion or the Liberal amendments that were made that would basically do the same thing.

Mr Duncan: I think this government has lost its nerve. We brought forward a bill just a month ago that goes well beyond this. Yes, the bill you're bringing forward, on a scale of 10, is a seven and our bill is a nine. Our bill will give safer roads to Ontario. I will make a prediction right here and now, even though I'm going to support the seven instead of the nine, that most of the recommendations in Target '97 that are not dealt with yet will not be implemented because of the way the government is conducting itself in these hearings.

We've supported your bill. We've said it's a good bill. Ontario is the lead jurisdiction in Canada on transportation issues, be it on this issue or any number of others,

just as it's the lead jurisdiction in any number of other provincial areas. We should be out in front. But I suggest to the government members that our measures ought to take into account the expert testimony we've had, and if we can have nine instead of seven, we should go for nine. I think you've lost your nerve. That doesn't mean we won't vote for your bill, it just means that in two years we'll bring in these amendments when we're the government and we'll toughen it up, because you're not doing enough.

The Acting Chair: Any further debate? Not seeing any, I'll call the question.

Mrs Marland: Recorded vote.

Yates

Bisson, Duncan, Froese, Hastings, Marland, McLeod, Munro, Parker, Smith.

The Acting Chair: It's carried.

Mrs Marland: Thank you very much. I'm now going to go and do my House duty. You're not going to call a quorum, correct?

Mr Duncan: Correct.

The Acting Chair (Mrs Lyn McLeod): We can proceed then. I believe we're on section 10 of the bill.

Mr Duncan: Yes, I have an amendment. It's amendment number 12 in the packet that the members have.

I move that section 82.1 of the Highway Traffic Act, as set out in section 10 of the bill, be amended by adding the following subsection:

"Operator not relieved of contractual obligations

"(32.1) Nothing done pursuant to an order to impound and suspend that is issued under this section relieves an operator from contractual obligations, including contractual obligations prescribed by regulations under the Truck Transportation Act with respect to the carriage of livestock, animal specialties and general freight."

Again, this amendment was requested by the Canadian Industrial Transportation League and is designed to ensure that when carriers have their vehicles impounded for the 15-day truck licence suspension, they are not exempted from their contractual obligations to the freight's recipients.

Over the break we contacted some people who have expertise in commercial law and they told us that this particular type of amendment recommended by the Canadian Industrial Transportation League will afford greater protection to the shippers and to the recipients of goods than straight commercial law would, and therefore this type of amendment would be desirable in terms of protecting businesses in this province, in terms of protecting both shippers and recipients and ensuring that liability for these problems rests properly.

Mr Hastings: As per usual, there are two sides to the story. The ministry would maintain that the existing current commercial law ensures that problems arising out of contractual obligations and transactions between businesses and businesses is significantly sufficient and that this would place MTO in a rather intrusive role in the relationship between the two parties under commercial or contract law.

The Acting Chair: Any further debate? If not, are you ready for the question?

Mr Parker: Madam Chair, could I call a 20-minute recess?

The Acting Chair: Is there agreement to the proposal?

Mr Bisson: You're playing games here.

Mr Duncan: What's going on? Why are you calling a recess?

The Acting Chair: Do you want to explain?

Mr Parker: Do I have to give a reason?

Mr Duncan: We had an agreement.

Mr Bisson: We had an agreement. You guys have got no class.

Mr Duncan: We had unanimous consent. You're out of order.

The Acting Chair: I understand that technically, when a question is called, you can ask for a 20-minute recess. With every amendment that's to be called, a 20-minute recess can be requested. Members of the opposition can do that on every section of this bill.

1830

Mr Duncan: If we're here until midnight, I'm easy. If you want to keep your members here, you go right ahead.

Mr Bisson: We'll call a 20-minute bell with every bloody vote tonight.

The Acting Chair: Excuse me. If I may ask the members of the committee, I'll use the latitude of not being traditionally in this chair to suggest that since there is unanimous consent for the committee to continue sitting and since this bill was presumably being approached in the spirit of cooperation, I think the committee is deserving of some explanation and some understanding of where the rest of the evening is going.

Mr Parker: I've sat on many committees and participated in many votes, and there have been many calls for recesses. I have never known the members of the committee or the Chair to call for an explanation for the reason. It's within the rules; I am exercising my —

The Acting Chair: That's fine. I was asking, given the spirit of the evening sitting, for a voluntary offering.

Mr Duncan: I move that we have a 20-minute recess after each amendment. If you want to stay until midnight, we'll stay until midnight, no problem. Good for you. I have no problem. I have House duty tonight, and I can go in and speak.

The Acting Chair: As a matter of fact, there is no indication that we have to adjourn at midnight. I'm not aware of there being a limitation on the time at which the committee has to adjourn this evening.

Mr Parker: Madam Chair, given the degree of controversy that my suggestion has given rise to, I'm happy to withdraw my request.

Mr Duncan: Are you sure that's what he told you to say? Are you sure you've got that right? Maybe you should get it in writing, a memo.

Mr Bisson: It's an awful job being a stand-in.

The Acting Chair: Proposal withdrawn, then. Shall we proceed to take the vote?

Mr Duncan: I move a recess for 20 minutes. I can do it for every amendment. We had agreement. We've been cooperating, we've been trying to deal with this properly, and then this guy walks in and starts giving you instruc-

tions. Come on. I'll withdraw that motion, but let's not play games. We've tried to be cooperative.

Mr Bisson: The point the government has to understand here is that on Bill 138 the opposition has gone to every length to give the government speedy passage of the legislation. We've been trying to cooperate as much as we can around all the amendments we've been dealing with today with committee of the whole.

In fact, the motion we just passed effectively did what both the NDP and the Liberal caucus had attempted to do by way of amendment to the bill. We lost our amendments and allowed the Conservative member's amendment to stand because the Tories would be seen as doing it themselves rather than the NDP or the Liberals having forced them to do it. We don't care. In the end it's highway safety; it's about people, it's about lives, it's about safety of our highways.

We haven't been coming here and playing games. I really find it offensive that you would come into this committee all of a sudden and, after there has been unanimous consent that we would make sure this bill was passed, that there were no games played, that the government got its bill, that you come in with that motion. I don't know. You guys sometimes take the cake.

The Acting Chair: We have an amendment before us. I've called for the question on the amendment. I will take the question. Should there be requests that further the business of the committee, I'm certainly prepared to entertain those at the present time. I have a motion to place. Have you called for a recorded vote on this?

Mr Duncan: Yes.

Ayes

Bisson, Duncan, Hoy.

Nays

Froese, Hastings, Munro, Parker, Smith.

Mr Duncan: Recognizing that the committee is meeting at an unplanned time, if the government desires a recess to allow another member to come in and deal with a particular amendment, we'd be happy to accommodate that. If the government desires that an amendment be set aside until another member is able to be here, we would be happy to accommodate that request as well.

The Acting Chair: I'm going to exercise the prerogative of having stepped into the chair to suggest that the whole purpose in continuing to meet tonight was to do justice to amendments that have been proposed, I think in good faith on all sides, and to have some discussions of those and also, based on the proposed motion and one I was prepared to table earlier, to have the committee continue to look at issues that are of shared concern to the committee.

If there is a desire to have a recess, whether it is to bring in another member or just because there is a desire to have some further discussion, I would be happy as Chair to entertain those requests. But if people are simply wanting to stall the business of the committee, whether it is technically necessary or not, there's some obligation to let committee members know there are people who have come here especially for this committee to present their

input on private members' bills that they've had passed by the House. They have reason to believe that by staying they're going to be able to discuss that.

I will make it clear that I'm not aware of anything which restricts us from sitting past midnight and I believe as Chair that we are going to have a full and fair discussion of every amendment that's before us. I would hope that's the spirit in which we continue the discussion.

Mr Duncan: I move section 10 of the bill.

The Acting Chair: All those in favour? Section 10 is carried.

Mr Duncan: I move section 11.

The Acting Chair: There are no amendments to be considered in section 11. All those in favour of section 11 being carried? Section 11 is carried.

We move to section 12 of the bill. Are there any amendments to section 12?

Mr Duncan: I have an amendment to section 12.

I move that section 12 of the bill be amended by striking out "section" in the second line and substituting "sections" and by adding the following as section 84.2 of the Highway Traffic Act:

"Attachment of wheels of commercial motor vehicles, etc.

"84.2(1) No person shall attach a wheel to a commercial motor vehicle or to a vehicle to be drawn by a commercial motor vehicle except in accordance with the manufacturers' specifications.

"Maintenance of wheels

"(2) The owner of a commercial motor vehicle or a vehicle to be drawn by a commercial motor vehicle shall ensure that the wheels of the vehicle are maintained in accordance with the standards prescribed by the regulations.

"Regulations, maintenance standards

"(3) The Lieutenant Governor in Council may make regulations prescribing standards for the maintenance of wheels for the purposes of subsection (2).

"Offence

"(4) Every person who contravenes subsection (1) or (2) is guilty of an offence and, on conviction, is liable to a fine of not less than \$2,000 and not more than \$50,000.

"Definitions

"(5) In this section,

"commercial motor vehicle" and "wheel" have the same meaning as in section 84.1."

Again, this amendment is copied from my private member's bill. It comes out of Target '97. It ensures that truck wheels are assembled to manufacturers' instructions. You heard testimony during these hearings with respect to the issue that carriers have and the OTA has about absolute liability. We think inserting this clause will help give greater certainty to court challenges on absolute liability, that absolute liability will stand up in court.

There is a considerable difference of opinion with respect to the notion of absolute liability, and we've brought this forward because it was a recommendation of Target '97, and also hopefully to buttress the case for absolute liability at whatever time it comes to court.

Mr Hastings: In response, let the record show that under the mandating of the Ministry of Education and

Training and in cooperation with the Ontario Trucking Association, we have already put into effect an insulation and reinsulation program for wheels and wheel fasteners. We feel as a government that this particular amendment will make it much more inflexible by putting into statute what we're already doing by regulation.

Mr Duncan: Your regulation is not being enforced now. I will produce for committee members written evidence to that effect from the Ontario Trucking Association. Yes indeed, it will be stronger than regulation, and we're honestly concerned that the way the government has designed the bill and the absolute liability provisions, they've designed it to fail in court. We want to try and prevent that from happening.

Mr Hastings: I'd just like to further point out that under the recertification program and in cooperation with the Ministry of Education and Training and the OTA, we've already had over 10,000 people go through the program. I don't think this is any indication of intent or that the government is getting reluctant fingers to deal with this problem or any other problem.

I'd appreciate receiving from Mr Duncan specific instances of where there has been a lack of enforcement so we can deal with that appropriately. Even if you had it in law, you could still end up with a situation where you didn't have certain failings under this program enforced. Just adding it into law does not automatically guarantee that you are going to have strong implementation. You could argue it either way. If it's under regulation, which we're doing this by, we simply need to ensure that we have sufficient resources to check out those specific examples of where we've had failings.

1840

Mr Duncan: Again, we think the government has lost its nerve on truck safety, but we will take half rather than nothing and vote for the bill. We don't think you're going far enough. We don't think you're committed to enforcement. We think your reluctance to deal openly and honestly in the legislation with the regulations that are required in Target '97 demonstrates quite amply what was demonstrated by the Premier when he forced the minister to withdraw Bill 125.

We think if you're committed that you will look at the evidence. We ask government committee members to look at the evidence. The regulations with respect to maintenance and installation are not being enforced in Ontario, and we look forward to debating this issue further.

Mr Hastings: I would simply add that for a bill to be described as something that's half better than nothing certainly indicates that the opposition, in my estimation and the ministry's estimation, doesn't really appreciate the intent of this legislation. I still haven't heard from Mr Duncan whether he accepts the challenge to provide us with those specific instances where we're failing to deal with enforcement.

The Acting Chair: I believe, Mr Hastings, that Mr Duncan began by offering to provide that information to the committee.

Mr Duncan: Yes, I will provide that.

The Acting Chair: Is there any further debate? If not, all those in favour of the amendment?

Mr Duncan: Recorded vote.

Ayes

Duncan, Hoy.

Nays

Froese, Hastings, Munro, Parker, Smith.

The Acting Chair: The amendment is defeated. The next Liberal motion: I'm advised there is before you another amendment on section 12.1 of the act, but I'm informed that this amendment is not in order because it amends a section of the Highway Traffic Act, section 87, which has not been opened by the bill that's before us, so that amendment would be ruled out of order.

Mr Duncan: On the question, what we are simply trying to do is: The government's providing for annual inspections of trucks, and we're suggesting they ought to be every six months. We're asking the government if it would consider opening that section of the bill so that this amendment could be inserted and so that we could reinforce our commitment to road safety in Ontario.

Mr Hastings: We maintain that the existing approach by regulation is much preferable in terms of flexibility for being able to get our precious resources to those areas where there are failings in the system, because that is the way in which government has to operate today within the overall context of restraint. You sharpen and focus your resources, legal, manpower, regulation, so that you can deal with those specific problems that need to be dealt with, so that we do have an overall record of a safe public highway system, a road system in the province.

It is out of order, and in my estimation, if the Chair has ruled it out of order, it indicates that despite the Liberal transportation critic's intent to strengthen this bill, in point of fact this is an example of what I would term carelessness. Since the government hadn't opened the section in the bill to begin with, it seems to me that this is a rather poor research effort.

The Acting Chair: Mr Duncan, I'm sure you will wish to respond to that, whether it's in order or not.

Mr Duncan: This has been recommended by a number of interested parties. The Chair has ruled it out of order on that particular ruling. I think it points out to members of the committee, when the government talks about a comprehensive bill, that in fact it's not a comprehensive bill. It deals with a number of important issues and we think it's a positive step forward.

Our intention is to show, by this particular amendment especially, that it is not comprehensive. You don't deal with something as fundamental as the frequency of inspections. We again challenge the government to open this section, let us deal with it; let us not accept that the carnage we've seen on our roads is acceptable. If you're truly intent on doing comprehensive legislation, you will open section 87, you'll increase the frequency of inspections because the minister has argued — and we still haven't seen the final figures but we've argued that you have more inspectors. We think that's good. We think there ought to be more inspections and we think Ontario should lead the way with six months instead of one year.

The Acting Chair: I am also informed that there are no subsections of section 12; therefore, before we proceed to any further amendments we have to take the vote on section 12. Should there be any further amendments, they would be renumbered and would no longer be section 12.

Mr Tom Froese (St Catharines-Brock): There is a section 12.1, 14A. Is that a new section?

The Acting Chair: I will proceed to consider further amendments should they be in order, but I understand that should they be in order and should they be passed, they would be renumbered to be new sections and therefore we must deal with section 12 as it now stands and then move on to the amendments. We will move on to those further amendments.

Mr Duncan has moved that section 12 be passed. All those in favour of the motion? Those opposed? Section 12 is carried.

The next Liberal motion we've already indicated is not in order.

The government motion, 14A.

Mr Duncan: Have we got another amendment on section 12.1?

The Acting Chair: We've got 14 on 12.1, which was the Liberal which was not in order. We are now at 14A, which is the government motion. Is that correct? The government motion I'm informed —

Mr Duncan: We had another motion on 12.2.

The Acting Chair: We will come back to that.

Mr Duncan: I'm sorry. I apologize. Never mind.

The Acting Chair: I think the committee should also be aware that government motion 14A in your package amends a section of the Highway Traffic Act, which has not been opened by the government's bill, and therefore the government's motion is out of order.

Mr Froese: I would seek unanimous consent from the committee to discuss the amendment.

Mr Duncan: I suggest that we could do that if we could reconsider the motion that I had put earlier in the day around the appointment of a committee as part of the legislation. I'd be more than happy, because if we're going to apply to the rules I think they ought to be applied fairly. Yes, my previous motion was out of order because again it introduces something that wasn't dealt with in the bill. I suppose that if the government is prepared to consider seriously a couple of our amendments, one of our amendments that we see as a priority, we could deal with that one.

Mr Froese: If I can ask, what you're looking for is consent to deal with the motion that we turned down or that was out of order.

Mr Duncan: We would have to have the support of the government members on one of our amendments in order to consider this, because if we reopen it, that's simply not enough. The government will obviously pass your amendment. We don't have the guarantee that you'll pass our amendment.

Mr Froese: You're not willing to give unanimous consent unless we not even just deal with but pass your amendment in favour or you're not going to do this one?

Mr Duncan: I would like to see your amendment pass. But the government didn't choose to deal with this in its

bill. We would be prepared to agree to unanimous consent if the government is prepared to —

Mr Froese: You're not agreeing to unanimous consent on this issue.

Mr Duncan: We might, if you were prepared to accept one of ours. Perhaps Mr Hoy's could be accepted, which is another bus bill matter, or we could at least debate Mr Hoy's because I believe that his might be found to be out of order as well.

The Acting Chair: I'll ask whether or not we could determine whether Mr Hoy's amendment would be in order before we enter that into the discussion. In the meantime, Mr Hastings can make his comments.

Mr Hastings: Might I suggest we take a five-minute recess to deal with the matter of Mr Froese's amendment and also the item proposed by Mr Duncan.

The Acting Chair: You're requesting a five-minute recess in order that the discussion not be on record?

Mr Duncan: That's fair.

Mr Hastings: Could we have that?

The Acting Chair: Is that in agreement with the committee?

Mr Bisson: Could I lay money on what's going to happen here?

The Acting Chair: Mr Bisson, were you requesting something seriously or are you okay with the five-minute recess?

Mr Bisson: The five-minute recess. That is fine.

The committee recessed from 1850 to 1853.

The Acting Chair: If you're all back and are willing to resume, let's proceed. I believe Mr Froese had asked for consideration of his motion which is out of order and would require unanimous consent of the committee to be considered.

Mr Froese: I would ask Mr Duncan, if I could have clarification, that they give unanimous consent to bring forward this amendment if we agree to have unanimous consent or give unanimous consent to have Mr Hoy's motion brought forward.

Mr Duncan: My understanding is that number 17 is in order but 18 is not in order. We would agree to give unanimous consent. We would hope the government would also give its undertaking to vote in favour of Mr Hoy's bill, which we did in the Legislature, so that can become law as well. We're trying to work with you folks and we're trying to pass your bill, which was passed by the Legislature last Thursday. The problem and difficulty we have is simply opening it to debate.

We think if the government is sincere in wanting to debate bus safety, you'll deal substantively and approve Mr Hoy's amendments as well.

Mr Bisson: Mr Froese suggests that we give unanimous consent to allow his motion to be debated by way of unanimous consent, and in exchange they will allow Mr Hoy's amendment, page 18, to be debated as well, even though it's out of order. Do I understand correctly? Then I'll carry on.

The Acting Chair: You understand correctly the request from Mr Froese and the proposal from Mr Froese. Mr Duncan's request, as I understand it, is somewhat different. They would consider unanimous consent on Mr Froese's motion provided there was an undertaking to pass Mr Hoy's motion.

Mr Bisson: The point I want make here is that by virtue of the government having a majority on the committee, they're not offering us a heck of a lot. You're saying, "Give me a chance to bring my motion that's out of order into the committee by way of unanimous consent, and by virtue of the majority of the committee we will have that passed because you will vote for it." Even if you didn't, it wouldn't matter. You've got a majority on that side of the committee, and then just because we have Mr Hoy's amendment come forward that needs unanimous consent to be dealt with, we're not getting anything here because you'll vote against it and we get nothing.

Mr Froese: I think you're making an assumption.

Mr Bisson: You're darn right I'm making an assumption.

Mr Froese: You could very well —

Mr Bisson: I've been around this place long enough to know what you're doing here.

Mr Froese: If we go with what Mr Duncan requested, then what would be the sense of debating the issue? This amendment would be passed.

Mr Bisson: That's what we're asking for.

Mr Froese: We've already incorporated in the bill part of Mr Hoy's private member's —

Mr Bisson: Still haven't finished.

Mr Froese: Oh, you haven't finished yet. Sorry.

Mr Bisson: What I'm going to suggest —

The Acting Chair: I called on Mr Froese to speak. Are you on the speakers' list again, Mr Bisson?

Mr Bisson: I had it on —

The Acting Chair: I already moved to Mr Froese.

Mr Bisson: You had moved? Okay, back on the list.

Mr Hoy: Let's not mince words here. Your private member's bill is here today. Mine is here today, not all of it, but portions of it, so we know that. We've had other members talk about drunk driving bills that pertain to private members' bills and whether they made it anywhere, in part or in full, and we've had eloquent speeches in the House these last two weeks around rule changes and the importance of private members' bills. So we're seeing parts of, and in total, I believe, Mr Froese's private member's bill that was passed at second reading last Thursday.

But consistent with my private member's bill this motion, amendment, we'll call it 17, is in order. There's no doubt about it. We made certain of that. Number 18 is housekeeping, dependent on 17; and in order to be consistent and always have a bill put forward or amendments put forward that meet the requirements of the law, that is why 18 is there.

I submit to you that both would be in order.

Mr Duncan: We would like to see Mr Hoy's private member's bill, which is approved by the Legislature already, so we are not prejudging anything, adopted in its entirety as well.

You're saying we're prejudging. Perhaps we are. We will put it to the test at the appropriate time, but I would think if the government is sincere — we're being as sincere as we can by putting our cards on the table — if you're being sincere and you're telling me, "We will respect the will of the Legislative Assembly of Ontario,"

which voted I believe in November for Mr Hoy's bill, if you're telling me that, if you're giving me your word and your undertaking, then we'll certainly agree to unanimous consent to open your sections with the undertaking that you will support Mr Hoy's bill in its entirety.

Mr Bisson: The point I wanted to make was basically that the House in private members' hour supported both of these private members' bills, so we're not prejudging anything; that's the will of the House. If it's the will of the House and you ask for yours to come into this committee to be put into the bill, we ask for the same for Mr Hoy's. That's a pretty even trade, I think.

Mr Parker: What we're into right now is debate —

Mr Duncan: Horse-trading.

Mr Parker: No, debate on the merits of these two motions is what we're into. That's exactly what we're into. You're saying you're going to vote for both of them and "What are you, the government, going to do?" Until we commit to what we're going to do, you're not going to make any commitment —

The Acting Chair: If I may make a suggestion, and I would do it because I have a little bit of concern about what Mr Parker is suggesting, which is that the government is being asked to make a commitment prior to a vote on the bill, although I think the opposition members have made very clear the fact that their granting of unanimous consent to consider Mr Froese's amendment is contingent upon that: If the committee wishes to have the debate, it would require unanimous consent to consider Mr Hoy's second amendment and to debate those two amendments at this point in time and take a vote on them. We could certainly entertain that so that you're not being committed prior to the debate.

Mr Froese: I appreciate your interjection and your advice on the way we should do it. I don't think that's going to make one bit of difference one way or the other. The opposition is not going to give unanimous consent if they can't get approval of Mr Hoy's section of the bill.

Mr Duncan: We didn't say that.

Mr Froese: Of course you did.

Mr Duncan: I asked you for an undertaking.

Mr Froese: What's the difference? Mr Duncan has said, "Vote in favour of our amendment and we'll give you what you want, but if you don't do that, we're not going to give you what you want." It's at a standstill. They're playing politics here with something that is a non-partisan issue.

Mr Duncan: Let's do Mr Hoy's first.

The Acting Chair: My suggestion was that if members are uncomfortable giving pre-commitments on the vote, they could consider Mr Hoy's amendments prior and vote on them. Quite clearly the government needs unanimous consent to consider Mr Froese's amendment, and that is a dilemma which cannot be resolved unless you give unanimous consent.

Mr Froese: Madam Chair, without delaying this whole process, would you rule on the request?

The Acting Chair: Mr Froese has requested unanimous consent in order to have his amendment considered for debate and consideration by this committee. Is there unanimous consent?

Mr Bisson: Can we have two minutes?

Mr Duncan: I move a recess.

The Acting Chair: I would accept a recess.

The committee recessed from 1902 to 1906.

The Acting Chair: Mr Froese, did you want me to place the request for unanimous consent?

Mr Froese: I thought the opposition wanted a two-minute recess to discuss this and I assumed they were going to come back with something.

Mr Duncan: We did that.

Mr Froese: I will withdraw my request and, as you suggested, I will request that we have Mr Hoy's motion brought forward.

The Acting Chair: Does that meet with the agreement of the committee? Is there unanimous consent to consider amendment 18 in order? I understand 17 is in order. The request has been made that we debate 17 and 18.

Mr Froese: Are 17 and 18 the same with respect to Mr Hoy's —

The Acting Chair: Yes, those are the two amendments. I just need unanimous consent of the committee, as I will on your amendment, Mr Froese, to consider 18 because 18 is not in order. It requires unanimous consent to be considered by the committee in any order. Is there unanimous consent to consider 18? The debate would first be, at the request of the committee, on 17 in our package. Is there a mover for this amendment?

Mr Hoy: I move that section 13 of the bill be amended by adding the following subsection:

"(2) Section 175 of the act is amended by adding the following subsections:

"Same: vehicle owner

"(19) If the driver who contravenes subsection (11) or (12) is not known, the owner of the vehicle that was driven in contravention of subsection (11) or (12) is guilty of an offence under subsection (17).

"No imprisonment or probation

"(20) An owner of a vehicle convicted under subsection (19) shall not be liable to imprisonment, a probation order under subsection 72(1) of the Provincial Offences Act or a driver's licence suspension as a result of the conviction or as a result of default in payment of a fine resulting from that conviction."

The minister has addressed some portion of school bus safety within the comprehensive bill we're talking about here tonight. He has increased the fine levels proposed under this bill to a higher degree than what we've seen before. I said in the Legislature that this initiative by the minister was a small step towards protecting the children who ride our buses every day here in Ontario.

Mr Froese and I and many others are interested in the safety of children. Under the current law, drivers of school buses have the ability to lay charges and bring them forth against those persons who pass a school bus when the red lights are flashing. However, they must identify the driver of the offending vehicle. In essence, they have to describe their face — very difficult, if not impossible, to do. I've canvassed drivers, policemen, parents and others who have taken an interest in this and they all agree that it is near to impossible to identify a face when passing a school bus. In some of those instances, and I want members to understand this well,

we have a lot of vehicles with blacked-out windows, so it's very difficult to see inside the car. The speed at which the vehicle is passing the bus is also a factor.

In the case of Ryan Marcuzzi, who was hit by a car and killed a year ago this past January, that vehicle, if I recollect, was going — and I'll use miles per hour — 50 miles per hour. So the speed of a vehicle passing a bus can be a significant factor in trying to identify who is passing that bus at the time.

If one passes the bus from the back to the front, one can only see the back of the head. If you're sitting at a stoplight and someone has maybe gone through a stoplight — it occurs on occasion. Or they go through on the amber, which is only a warning and set up so they can be stopped by the time it turns red. I'm sure many of you have seen this happen. While you were stopped at a stoplight someone went by you, maybe not going at a great rate of speed, and I defy you to identify the person who was driving.

So yes, the minister has increased the fine levels, but they're a moot point if we can't get convictions. Let's remember that there were fine levels before, it's just that they were lower. Bus drivers say they are being passed twice a day, twice per shift, four times on one day — it could vary — but often enough. There are 16,000 buses in Ontario, and if they are passed on average twice a day, you're looking at far, far too many incidents where people are jeopardizing the lives of young children.

The point has been put by others that children should look both ways. However, they are as young as five years old and they depend on those flashing red lights to protect them. Maybe they do look both ways, but how do you know that car way down the street is not going to stop? Are they going to stand there forever and wait? I've had parents say that they stand on the road now and flag the traffic down with their arms to protect their children. There's one area in Essex where they do that. They won't let the kids out on the road; two or three mothers go out on the road and they wave their arms and make darn sure the cars stop. Now we've got people out in the middle of the road.

It was also reported to me that people understand fully what the law is today, that they have to identify their face, make a positive identification, so when they pass the school bus they're putting their hands up and they're driving by like this. They understand the law. They know full well the reasoning and how they can escape conviction.

What we have here is the minister bringing in new fine levels, which are all very well and supported by myself. They vary from my private member's bill, but I don't think the fine levels in themselves are the total point. We need now an enforcement mechanism. The police and others — municipalities, school boards, parents and those persons who aren't parents any longer perhaps — are telling me that this is the only way to give teeth to the law, adequate protection to children who ride school buses. We must remember that in the last 10 years 11 children have been killed and over 80 injured and far, far too many incidents which we would call close calls.

I support Mr Froese's bill. It's very laudable. He wants to protect children as well in regard to school bus safety.

I haven't been able to find out on my own time and resources, but I think in your backgrounder you have not shown where anybody has been injured or killed in the two instances within your bill. That's great. We don't want anybody killed before we change the law. I think if you have this initiative now, down the road hopefully you will be certain — or at least minimize the incidence of a death or an injury.

But in this case, and I'm talking about vehicle owner liability, we know there have been 11 deaths and 80 injuries in the last 10 years, and in many jurisdictions the police have given up trying to apprehend people or even go out and talk to the bus driver because it cannot be proven who was driving the car in most instances. Just think of those other examples I cited.

Let me tell you about one court case. The bus driver was adamant — I assume it was a she but maybe I shouldn't do that. The bus driver was adamant that they knew a description of the person, the offending driver. They went to court. The defence got up and said, "Is this the person who passed your bus?" The driver of the bus said yes. Then he went and had this person's sibling stand up, who was near in age, same gender, and the bus driver said, "Now I'm not so sure." The family resemblance was so strong that she said, "Now I'm not so sure." If we had the vehicle licence plate — in all probability in court you'd need to have the make, model and other circumstances, but of course the vehicle licence plate will be the optimum thing here.

I want to make it clear to the members, because I've been asked by government members and others, what we are talking about: If we can make positive identification of the driver there would be a conviction attempted there, and if we have vehicle liability there would a conviction there, but we are not seeking to penalize both the owner and the driver. It's one or the other, not both. Some people have thought that that's what I was seeking.

We certainly need vehicle liability. It's called vicarious liability. It is not nearly as onerous as absolute liability. We have had vehicle liability within other laws.

Mr Parker: I don't think there is anyone in this room who does not support the goal Mr Hoy seeks to achieve with this amendment, that being greater safety for children, particularly safety for children on our roads. I don't think anyone on this committee is not concerned over the safety of children in the area of school buses and is not outraged and chagrined by any hint of danger to children in the area of school buses. I think we all applaud Mr Hoy for bringing this issue forward in his private member's bill. The government has accepted a portion of his bill, as he points out, in the present Bill 138, in the form of the higher fine levels for violations of this sort. But the particular elements in this motion should give us all serious concern.

The Court of Queen's Bench in Saskatchewan has ruled on a matter having to do with a similar concept, and I'll quote from the court:

"In my opinion, fundamental justice encompasses the concept that a person should not be punished in the absence of a wrongful act."

That is at the core of the difficulty of this particular amendment. This amendment does not address the person

who committed the wrongful act. It addresses the owner of a vehicle that is allegedly involved in a wrongful act. The owner is not necessarily involved in the act. This is something that should give all of us great concern if we are going to open that particular door in legislation.

There is also the question of how workable and how practical this recommendation is. As a question of evidence, Mr Hoy has pointed out that it is often difficult to get a positive identification of a driver of a vehicle as it passes a school bus. I understand that. It's also difficult to get the licence number right. The questions that would come up in evidence in a trial under this section would be the same questions that would come up in trial under the question of the positive identification of the individual:

"What was the licence number? How can you be sure that was the licence number? Here's another licence number with two figures transposed. Couldn't this have been the licence number? How can you be so sure you've got the licence number right? Why were you watching licence numbers instead of watching children? Are you really watching the right thing here? Are your priorities in the right area? Shouldn't you be spending all your time watching the children, watching the road, watching traffic? Can you tell this court seriously that you're spending all your time watching licence plate numbers at the expense of the safety of the kids?"

Those are the kinds of questions that would be brought forward in a trial based on a prosecution under this amendment. The questions of evidence that would be brought forward would be quite similar to the questions of evidence that are an issue at the present time.

1920

As a question of policy, do we want school bus drivers paying that close attention to licence numbers or do we want them to have a clear mandate to dedicate their efforts, their energies, their attention to the activities of the kids, to the safety of the kids and to the conduct of the traffic? Do we want to do anything to encourage the bus drivers to take their attention away from those vital elements of their duty and divert their attention to recording licence numbers? I'm going to suggest that as a Legislature we don't want to be sending that message to school bus drivers. It's important to all of us that they put their priorities in precisely the right area.

Mr Hoy makes the further point, and the bill itself says, that prosecution of the owner would only take place if the identification of the driver couldn't be ascertained. That creates a situation where there's going to be pressure on the owner to finger the driver. The scenario we're setting up here is that instead of paying attention to who the driver was, all you have to do as a prosecutor is nail the owner and let the owner nail the driver. That's the scenario that's going to be brought before the courts. You'll have the crown bringing in the owner of the vehicle, and it'll be the owner of the vehicle providing evidence as to the identity of the driver and then the charge would be laid against the driver.

The courts have frowned on that sort of approach, where the owner in this case was not involved in the commission of the offence. The owner merely had the misfortune of owning a vehicle that was used by a third

party in an offence. That is another area we should be very careful about endorsing as a Legislature and putting into legislation.

There are these practical difficulties with this particular amendment and there is, I repeat, the difficulty and the serious concern, as a matter of principle, that this amendment, as worded, would punish a person who is not involved in the commission of the offence. That is in violation of what has been established as a principle of fundamental justice. That's, with all respect, what this motion invites us to do.

In that respect, my recommendation is that this particular amendment not be adopted but that the issue of school bus safety, having been quite correctly and quite appropriately brought forward for our consideration, to the concern of all of us — that we find a way of addressing that concern in a manner that is effective and that stands up to the accepted, established principles of justice.

Mr Hoy's bill has served us well by bringing this issue forward. As I say, elements of the bill have been adopted in the present bill that's before us, Bill 138. This particular motion, though, I urge the committee not to adopt.

Mr Duncan: First of all, we're dealing with a Highway Traffic Act offence, not a Criminal Code offence. Second, I would submit to the member to at least be consistent in his arguments. My goodness, we're dealing with absolute liability in other sections of the bill. Even considering the fact that we're dealing with a Highway Traffic Act offence, not a Criminal Code offence, and we're dealing with absolute liability in another part of the bill, the least you could do is be consistent in your arguments. Why wouldn't we let it go forward? It has been supported by police forces. It has been supported by municipalities. It has been supported by everyone who has seen it. It has been passed by the Legislature.

If you are suggesting we can deal with this further in some other forum, even though the Legislature has passed it, then I would submit we can deal with Mr Froese's amendments at the same time. Your arguments are not consistent with other parts of your bill, and you're treating this as though it's a Criminal Code change. It's a Highway Traffic Act change.

I would submit on that basis that this can be passed, and let's see what the courts do, but let's say unequivocally that we want this kind of protection for our kids. Don't lose your nerve on this as well. Don't be afraid. Show leadership, as Mr Hoy has done, as the government itself did in voting for Mr Hoy's bill in the Legislature, and show that you're going to be consistent not only through this bill but through your votes based on what you did in the Legislature as well.

Mr Hoy: The member, Mr Parker, made a number of comments I'd like to address. When asking owners of vehicles to be responsible for the actions of those whom they have, we'll say, loaned their car to or allowed them to drive, I've talked with many people who, if they knew that the driver of their vehicle was flagrantly going by school buses, would want to know, and the owner would be delighted to say in a court who was driving on that day.

You mentioned evidence and licence plates and how they could be in error. So too might someone describe

someone robbing a bank in error. That's why we have the courts to determine whether justice will prevail, whether there's a correct amount of evidence. I also stated that quite likely someone would be asked to say what was the make of the car, perhaps, other circumstances such as colour, time, date and place of when this occurred. So in giving evidence, I suspect that it's always the defence's position that there are errors, but we have to give bus drivers the tools to bring about the convictions Mr Palladini wants in the level of fines he has set.

Remember there were fines before, and people are flagrantly disobeying the law at an alarming rate and the incidence of passing school buses is twice the provincial average here in Metro Toronto. I was amazed to find that out. I thought this would tend to be a rural issue, but the incidence of passing school buses is twice the provincial average here in Metro Toronto, so it's Ontario-wide that we are speaking of.

We have a thing we do here in Ontario. When we ticket people for leaving their car too long or in the wrong place, guess who gets the ticket? The owner of the vehicle. Here in Toronto I understand — I've never had this occur to me and I hope it never does, but I've talked to others who have had their car towed away, if there's a fine for parking in the wrong place or too long or whatever the infraction was, and if we didn't get to the owner, I suppose the fee for impounding the car would be worth more than the car was at some time. It's very, very expensive to get your car back here in Metro, and guess who we give the ticket to? We give it to the owner — vehicle owner liability.

1930

We also have situations where high-ranking staff of companies could be liable for injury or death or harmful effects of a product their company produces. That company may produce this hundreds of miles from the head office where that man or woman works. There's a liability that occurs to certain persons if a product were to hurt, injure or even kill someone.

You're quite right: We're talking about an amendment to the Highway Traffic Act; we're not talking about some of these things I've just mentioned. But in parking tickets, clearly there is a precedent set for vehicle owner liability. Quite frankly, anyone might be asked to identify a vehicle by licence plate, such as hit-and-run victims. How many times have the police come out and said, "Did anybody see the licence plate?" If that person was hit by a car, was injured and maybe died later or died instantly, they say, "If anybody saw the licence plate, please call the police; here's the number," and it will flash on the TV screen.

It was amazing to me that on the day Mr Froese's bill was being debated here in the House, that morning I turned my TV on and the police were asking people to call them if they saw aggressive driving, dangerous driving or whatever terms they might have put to it: "Give us a call. Give us a licence number. We want to know." Right after that the Minister of Transportation flashed on the screen. He was out doing a photo op. It was all part and parcel of the same story.

There have been bus watches here in Ontario where the police have asked the public and, more important,

school bus drivers to report licence plate numbers. In one jurisdiction they get 40 a month. They send the owners a notice, "You've broken the law; you're jeopardizing the lives of children," but they can't enforce it. They can't lay a fine. They just say, "Don't do it again." Here's the sad part and the one government members should listen to: The same licence plate numbers come up time and time again because they know they can get away with it.

Mr Bisson: It's like drinking and driving. The same idea.

Mr Hoy: Can you imagine? The school buses in the morning and in the afternoon tend to be just about drive time for a lot of other people. They're heading to work as the children are heading to school and they're heading home from work just as the children are heading home from school. They both happen to be using the highways at approximately the same time of day. So the buses are out there with a high degree of traffic flow moving on and on.

One thing the member also mentioned was that school bus drivers should be doing other things rather than looking for licence plate numbers, and I agree. But guess what they do? They stop the bus, they take a look, they feel that all the traffic has stopped and then they open the door. The child walks out, and the offending vehicle, which may be coming from some distance or from someplace in a line behind them, comes along and hits that young boy or girl. The driver of the vehicle may feel that all the children are off the bus and "Oh, I'm going." But the little fellow at the back dropped his knapsack or his lunch pail or his shoe is untied and he's just a little later getting off the bus than the rest of them, maybe he even takes shorter steps, and this person has endangered somebody's life by thinking, "Oh, I can go now. I see five children off. That must be all of them," and the sixth one is still coming. It has happened.

They pass on the left side of school buses, they pass on the right side, they go down shoulders; they do all manner of things. The bus drivers are white-knuckled. They are white-knuckled with fear that this is going to have terrible repercussions. I spoke with bus drivers after Ryan Marcuzzi was killed. They weren't even involved in the accident and for weeks they were petrified. They say, "Yes, we have a fine level on the books, one that's being increased now, but it's a moot point because we have no enforcement mechanism."

What is better than having an eyewitness account of someone flagrantly breaking the law? These bus drivers care for their most precious cargo, as they call it. They call the children their very own. They call them "my kids," because for that 45 minutes, hour, hour and 15 minutes in the morning and at night they are their children. They believe they are their children and they are in their custody. They say, "We must have something that sends out a strong message and is a deterrent to the driving public that this cannot continue."

I say just to government members that unless you have vehicle liability it will continue because there is no enforcement mechanism except if the bus driver can get positive identification. There is no empowering of bus drivers by going to vehicle owner liability, because they have the power now to identify drivers. I don't know

about the government's idea about giving them more power when they identify a vehicle. They have the power currently to have charges laid.

I urge the government to vote in favour of this, because what is happening in Ontario to 16,000 school buses today, two times per shift, 810,000 children getting on and off, some as young as four and five, is happening far, far too often. Fines alone will not stop this from happening. Education, I agree, would help, but it alone will not work. We've had education programs on drunk driving, and look what you had to do: You had to toughen up the laws again. So I urge you to use your conscience and think about —

Mr Bisson: And your common sense.

Mr Hoy: Perfect sense, I'd call it. Use perfect sense and think about the children and their safety that the mothers and fathers and the 30,000 people who signed petitions asking for this are depending on you for.

Mr Bisson: Let me try to make the point as clearly and succinctly as I can. The argument Mr Parker put forward is that members should not support this motion on the basis that vehicle liability would not stand up in court. That's the long and short of what he's arguing. I would just say to the members opposite to remember how the law already applies when it comes to vehicle liability. There is actually legislation in place now that has that principle in it.

If you go out and rent a car and you get caught for a speeding ticket or any kind of contravention in regard to using that car, who ends up getting the ticket? It goes to the car, in other words, the rental company. The rental company then goes after the person who rented the car on the date the offence took place. That's vehicle liability.

In the case of photo-radar, a bill I remember quite well, our government, under Mr Pouliot, the former Minister of Transportation, introduced the concept of making the car liable for the speeding offence. I remember at the time there was an argument, on behalf of I'm not sure if it was the Tory or the Liberal opposition, that it would not stand up in court, that if we introduced vehicle liability, when it came to a speeding conviction charged under the photo-radar system, it would not stand up in court. It went into law. It actually would have stood up in court. Unfortunately the government withdrew that particular initiative. I think that was a debate for another day. I think it should have stayed in place. In the case of Alberta and other jurisdictions, vehicle liability has stood up in court. It's not a foreign concept, something that's never been done.

In the oldest of all traditions, parking tickets, if I lend Mr Parker my car because he's without his vehicle tonight and he goes out and gets a parking ticket wherever it might be in the city of Toronto, who is going to get the ticket? It's not going to be Mr Parker, it's going to be Mr Bisson's car. It's my responsibility as the owner of the vehicle to go after whoever I might have lent my car to that evening and get the money. So I think there are ample examples of where vehicle liability exists in present Ontario statutes and has actually stood up to court challenges.

The other point I would make is that — and it's already the practice — as Mr Hoy pointed out, we accept

within the courts, and this is the longest of all traditions, that we can identify the person. If, in the case Mr Hoy pointed out, the bus driver sees the person and says, "Aha, it's Mr Parker who passed the bus with the flashing lights and I'm going to bring him to court," what do you think is going to happen? It's going to stand up in court. If I can make a positive ID and can with certainty convince the judge — not a jury, obviously — that within all probable doubt it was you, it's going to stand.

1940

I think it's easier to identify a licence plate than it is to identify a person. Mr Hoy made a point in one of the stories he told that I think was quite telling. A person had identified a particular driver, a particular person, and when it went to court, the defence had the brother, who looked similar, stand up and the person who had done the identification said, "Oh, I might have been wrong."

The point I make is, we remember numbers far more easily than we remember faces. It's easy to remember a phone number. It's easier to remember a licence plate number than to remember the face of an individual. I think both from a practical standpoint and within what's been tried in law and what already exists in statutes, vehicle liability has all kinds of examples of where it already exists and already works and has stood up to court challenges.

The last point I would make is that if the government is worried — Mr Parker said, "We don't support this legislation because we think it might not stand up to a court challenge" — what about absolute liability under wheel safety? I don't subscribe to the view. I think that when it comes to flying truck wheels, absolute liability will stand for the trucker who happens to be driving that particular truck. But there were people who came before this committee and said the government should not adopt this particular law on the basis of absolute liability because they believe it will not stand up to a court challenge.

What does the government do? The government says: "Oh no, it'll stand up to a court challenge. We're going ahead with it." That's your right, but you can't have it both ways. You can't say on the one hand, "When it comes to the flying truck wheel legislation, we think it will stand up," even though there are some legal opinions on the part of the opposition critic, Mr Duncan, that say it won't. Sabourin came here and presented and said it won't stand up, the OTA said it wouldn't stand up, you guys have said it will and you're going forward.

I'm saying what's good for the goose is good for the gander. You can't have it both ways. Vehicle liability stands up in court. There's all kinds of jurisdiction that shows it does; there's all kinds of precedents that show it does. It has been done in other jurisdictions. It's being done in Ontario. Vehicle liability exists, and you can't argue it both ways. You can't say on the one hand, "When it comes to the flying truck wheel part of this legislation we think that absolute liability will stand." Others say not, and you say: "We believe ourselves. We don't believe them."

I wrote down the last point I wanted to make. I don't know why. It's the fourth point. Sometimes we write down a fourth point and we don't remember why we did. I'll just stop at that point. Thank you.

Mr Parker: Mr Bisson suggests that my argument boils down to simply this: that I am urging the committee to vote against this motion because it will not stand up in court. Not only is that not an accurate summary of what I said, I never even listed that as an element of my argument. That's not my point in urging this committee to, or recommending that this committee, vote against this motion. I expressed no opinion as to whether this motion or Mr Hoy's bill would or would not stand up in court. That's not my point.

I am suggesting that there is more than one consideration that we as a Legislature must bear in mind as we examine material before us, as we pass bills into law. In this case we've heard a very strong and passionate argument about why the safety of children should be a very important consideration for us to bear in mind as we consider this bill and this particular amendment.

I support those arguments. I agree that that is a very important consideration that we must bear in mind. I'm suggesting that we must also consider other principles. I'm suggesting that there is the principle of fundamental justice that we must consider. I hear that this is the Highway Traffic Act, not the Criminal Code, so it doesn't matter. "Why are you talking about justice? That only matters when it's the Criminal Code." I think we want justice in all of our life, whether it's the Criminal Code or whether it's the Highway Traffic Act or —

Mr Duncan: On a point of order, Madam Chair: I did not say it did not matter. I simply stated that a Highway Traffic Act offence was much different from a Criminal Code offence. If you're going to argue on those lines, you should be clear about it. It certainly does matter, and we believe very strongly that not only will this bill stand up —

The Acting Chair: A point of order is to clarify, correct your own record, but not to enter into the debate. You are next on the list.

Mr Parker: To me, it's not terribly important whether it's a Criminal Code offence or a Highway Traffic Act offence. I want this Legislature to respect principles of justice as it considers matters before it.

Mr Duncan: Do you believe in absolute liability?

Mr Parker: "Absolute liability." The suggestion is made that somehow absolute liability lacks the essential elements of natural justice. Let's look at what absolute liability is. Absolute liability is not indifferent as to who is responsible for the wrongful act. This amendment is. This amendment does not care who committed the wrongful act. This amendment merely looks at who owned the vehicle that was involved in the act. Absolute liability looks at who was responsible for the condition which resulted in a violation of the bill.

In the case of this particular example, in this bill, of the truck wheel separation, the question will be, who was responsible for maintaining that wheel in good condition? When that answer is established, then that person who is found to have been responsible — the person who is responsible — is absolutely liable. It's not saying, "You owned the vehicle, therefore per se you are liable." That's not what this bill is about and that's not what absolute liability is about, but that's what this amendment is about. This amendment says that regardless of who committed

the wrongful act, the owner of the vehicle involved in that act will be found liable and will pay a penalty. It is that element of this amendment which violates the principle of fundamental justice. That's altogether different from absolute liability and that's altogether different from absolute liability as it appears in this bill that's before us.

The point is made that this amendment is essentially the same as the private member's bill which passed second reading, so if we're all consistent, it passed second reading and it should pass in this bill. Remember that second reading is approval in principle. Then matters go to committee to examine in detail and pick the precise elements apart and see if they should proceed to third reading.

The principle in the private member's bill — there were a number of principles — is that essentially there should be greater attention paid to the need for safety of children in school vehicles and there should be a higher penalty for violating the Highway Traffic Act in respect of school vehicles. Those principles were in that bill, those principles were approved on second reading and those principles are addressed in Bill 138.

There was also the element in the private member's bill that there be vehicle liability. That's part of the private member's bill and that's the part I am examining now. I'm suggesting that is an element of the private member's bill that should not proceed at this stage. The other elements are very important. They were approved in principle on second reading and they are respected in Bill 138.

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The point was made that you often find that the same car is involved in an offence time after time and it's about time we got these guys. I can't argue that we shouldn't do a better job, the best job we can, of getting the people who are involved in breaking the law in this way. Does the answer lie in dispensing with our principles of justice and going after the owner of the vehicle, whether the owner of the vehicle is involved in the infraction or not, or does the answer lie in better enforcement of the laws we have?

One element the government has brought forward in Bill 138 in that respect is the higher fine that is associated with violating the prohibition against passing a school bus. Bill 138 addresses that. Maybe there are other ways that should be addressed; maybe there should be a greater effort by local municipalities to direct prosecutions against violators. Maybe the police should do a better job of catching the people involved. If they know which cars they are and when these violations are occurring, maybe it's a simple matter for the police to be in a position to wait for the next violation and catch the driver who is responsible.

The answer lies in better enforcement and better efforts to catch the people actually responsible for the infractions. That's not what this amendment is about. This amendment is not about doing a better job of catching the people responsible for the infraction; this amendment is about doing something altogether different: penalizing someone who may not have had any involvement with the infraction. That is a violation of fundamental justice

and that should weigh heavily on our conscience as we vote on this amendment.

Mr Duncan: The principle of vehicle liability is well established in the Highway Traffic Act. I submit to you that Mr Hoy's amendment is not a violation of fundamental justice, number one. Number two, the OTA sat before us here and spoke in those same terms. Having read their legal opinion around the question of absolute liability, not to mention others, the issue of fundamental justice is raised quite extensively there.

In order to be consistent, we should be consistent in our arguments. I think what this is about is that you don't want Mr Hoy's bill to pass. I think you want your government to take credit. We're going to vote for your amendment, we're going to do that, and we think you should quit playing politics. You know what? You talked about second reading. Mr Hoy's bill, even though it was ordered for second reading, never got to second reading.

Mr Bisson: It never got to committee.

Mr Duncan: I'm sorry, it never got to committee. We never had the chance to pull it apart, to poke and prod. We didn't get that opportunity. You talk about natural justice, fundamental justice. It didn't get there. This is about you doing what you're being told: to kill this, to pass a bill that, yes, is half a cup, but it's not the whole cup.

We submit that if you were really serious about dealing with these issues once and for all so that we don't have to wait, then you'd deal with them up front. You're killing it for political reasons. Your arguments aren't based on law; they're not based on fact: "We're going to pass the Tory amendment; we're going to kill the Liberal amendment." Let it be said that the Liberals voted and will vote for your amendments. We're voting for your bill, but we will bring in his in two years' time. We will bring it in and it will be passed by the Legislature because you know full well the principles of vehicle liability are well enshrined in the Highway Traffic Act.

You know full well that all this is about is politics. Yes, I applaud your efforts. I applaud the member for St Catharines-Brock on his amendment. We applaud you. We supported it in the House. We will be consistent and we will vote for it. You are about to kill his amendment. You've left out the key parts of the bill. You're playing politics with children. You're playing politics because you want the credit for it. You don't want to sit here and give backbenchers and opportunity. You want to control, control, control.

Mr Froese: That's not true.

Mr Duncan: It is true.

Mr Froese: No, it's not.

Mr Duncan: Then pass his amendment. Pass one of our amendments. You're not interested in that. You're doing what you're told. You're going to pass a bill that we'll support, and we'll support your amendment. We applaud your effort, but we challenge you to do the right thing. Do what the police forces in this province have told you to do, do what most major editorial boards in this province have told you to do, do what the parents of one of those victims have told you to do: Pass it. It's very simple, and it's right in law and it's right in fact. Stop playing politics.

Just like 125, we're seeing it all over again. We do a press conference, we bring in a bill and then the Premier cuts the legs out from under it. You bring in another bill, a good bill, and we'll vote for it. It doesn't do what you said it'll do and we just think it's a shame that when the opposition — and you often criticize us; I've heard the criticism in that House, particularly in the last week. Here we are, we're passing your amendment; we think it's good. We're voting for the bill. We had concerns about absolute liability. We're going to go with you on this one. We think you're going in the right direction. A difference of opinion perhaps — and I've seen them. We've read them; we've had evidence presented.

It's just unfortunate that you people, despite all that, want to play politics. I think Mr Hoy is to be congratulated. He's the author of the bill and he's telling you that the parts of his bill you accepted aren't enough. I challenge you to pass this amendment, to put your money where your mouth is. Otherwise, this is a futile exercise and the notion of opposition and government cooperating on a bill is lost and you're just interested in scoring political points. It's too bad.

Mr Bisson: The point Mr Duncan makes I think is a good one. I want to follow up on that.

To get back to Mr Parker's point in regard to the principles of due justice, you argue that you want to make sure the principles of due justice are followed, and if we introduce vehicle liability, somehow or other that's going by the wayside. I've made the arguments before and I'm not going to make them again, that there's already that process in place when it comes to vehicle liability. When it comes to speeding tickets with rental cars or any kind of infraction against the Highway Traffic Act — parking tickets — vehicle liability already exists.

I want to say that if you feel so strongly that there shouldn't be this kind of intrusion, or whatever you want to call it, called vehicle liability in this bill, where's your bill to withdraw vehicle liability from every other bill that exists in Ontario that already allows that to happen? You can't have it both ways. You can't on the one hand come in here and say, "I don't agree with vehicle liability because I think it goes against the principles of due justice," and then turn a blind eye to everywhere else it exists, in the Highway Traffic Act and other acts, here in Ontario. It really smacks of trying to walk on both sides of the fence at the same time, even though you're not a Liberal — excuse me; I shouldn't have said that.

I want to come back to the point my colleague made. Those of us who have been around here for a little while understand that the whole idea of private members' hour has always been to give individual members the ability to bring forward pieces of legislation that are important to them, their constituents and the community as a whole called Ontario. We're not supposed to mix into private members' hour the whole idea of bringing in government policy.

You wonder where I'm going with this, but let me just make the point that we've seen over the past while more and more government members — not all members, but some members of the government — being utilized by the government to introduce primarily what are government policies by way of private members' hour. How I

relate that back to all of what we're saying here is you're playing with the process. I think what we need to recognize is that Mr Hoy and Mr Froese came forward with private members' bills — did the research, did the groundwork, worked within their communities in order to bring those bills forward — and they deserve our support because we gave them that support when we were at private members' hour. It really makes me uncomfortable when I see us playing around with the intent of what private members' hour is all about.

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The other thing is — and I'm trying to be non-confrontational here but I guess I'm going to have to be; it's the only way I can deal with this — that I think Mr Duncan is right. I think the government — and maybe you might not feel comfortable with this; maybe this is what you're being told by the people at the minister's office — really doesn't feel comfortable about supporting an opposition member's bill, and I think that's wrong.

We need to recognize that we're all honourable members, we all come here to do our job, and to not support a bill on the basis of its being from a Liberal opposition member, I think is wrong. I've voted for many bills at private members' hour, as I've voted against them, and I try not to vote them based on party politics. Private members' hour is supposed to be about the common sense of the bill and whether it should stand on its own.

I say to the members, let's not walk down that road. We've passed this at second reading. We allowed both Mr Froese's and Mr Hoy's bills to go at second reading. Vehicle liability already stands up before the courts. We're not changing anything and we're not doing anything that doesn't already exist. Let's just move on, and let's do this for the people of our province, who we're here to support and to represent.

Mr Hoy: I want to touch on the absolute liability and give some of my comments in response to Mr Parker.

My understanding of absolute liability is it's far, far more onerous than vehicle liability. Clearly, I've stated already that we have vehicle liability here in Ontario, but absolute liability that you're proposing under this bill is somewhat more than that. Owners of, let's talk about trailers on these trucks that travel Ontario, may not have the foggiest notion of whether that trailer sat in Denver for two weeks, Winnipeg for a week, Montreal for five days, before it went out on its next route, may not even have ever met the man or woman who worked on that trailer and maintained it, and yet he could be liable. So don't tell me that you're worried about vehicle liability in the instance of school bus safety, when we have absolute liability put forward by the government here today.

This government has talked about snitch lines — talk about rights. "Give us a call. If you've got something on somebody, give us a call. We'd love to hear it." Whether they act on those snitch lines, I don't know, but it seems to me to be not the best way of pursuing problems in today's society. I think the courts are far better. You're talking about snooping on WCB claimants and sending out these snoops, and I'm only talking about vehicle liability, something that Ontario has had for a long time.

The government's musing about fingerprinting everyone. Talk about infringements.

This bill, as mentioned by others, but I want to give you a chronological order of what happened here, was introduced, my staff told me, exactly a year to the day before Mr Froese's bill last week. I knew it was in June, but I didn't know Mr Froese's bill was introduced a year to the day that mine was a year prior. First reading.

Second reading was November 28 last year. We have been seven months waiting to get it to the resources development committee, where it was deemed to go by a vote in the House. Seven months. Unless something happens in a positive sense here tonight, a full school year will go by again and these same drivers, same children, same parents are going to be fretting and worried for the little ones that are riding our buses here in Ontario.

I have spoken to the press and have always had great optimism for this bill. It has wide, wide, widespread support and I have never, ever mentioned that I thought the government was stonewalling. I always had faith and stayed away from that in order to put the government in a good light. The bill itself never put the government in a bad light. It's a new phenomenon here in Ontario, a growing phenomenon. I shouldn't say it's new; it's happened many times before.

I had a mother whose daughter was killed I believe 30 years ago travel here to support me at a news conference, and she said: "We need to have the laws changed. The existing laws don't work. My daughter was killed 30 years ago and nothing has changed."

Seven months we waited patiently for the government, and there were months and months, and days, when the resources development committee had nothing before it. Nothing. It wasn't until we got to about this time of year, when the government's trying to rush a bunch of bills through as the House winds down, that resources development got very busy at all. Months went by and we could not debate the merits of Bill 78 that indeed has vehicle liability.

The minister said in the House that the only law more serious than school bus law is failing to remain at the scene of an accident. I tend to agree. That's a serious offence. Did you know, Mr Parker, that failing to remain at the scene of an accident is a vehicle liability offence? Isn't that something? So we have precedent. The minister's own words were that failing to remain at the scene of an accident is maybe somewhat more shocking than passing a school bus and the fines and the convictions for that come under vehicle liability — the very same thing that so many supporters of Bill 78 want, so many people.

I wonder what the members opposite would say about someone who has been convicted of failing to remain at the scene of an accident under vehicle liability. It must have been handled in the courts in a logical, fair way or it would have been found out of order. This, by the way, is why we have courts: to make sure that things exist for both parties.

I want to also say that the second part of this amendment, where we talk about no imprisonment or probation, happens to come from existing legislation here in Ontario in regard to vehicle liability. It's not something that my staff or I concocted. It's something that exists here in Ontario to meet certain criteria in regard to vehicle

liability. We have worked very, very hard on this bill to make sure that it's a sound bill, that it will stand the rigours of some of your questions and, more importantly, the law here in Ontario.

One must remember, as legislators, we are creating a new law. That's exactly what we're doing. We're saying that if we cannot identify the driver of the vehicle, and if adequate information is given, bus drivers will be able to attach convictions to a vehicle owner. That owner can come forward and say, "No, it wasn't me driving that day; I happened to be 500 miles from here. I have a bill from my hotel room 500 miles from here at that given time, that given day. I couldn't have done it," and I don't suspect that person will be fined, not at all. As a matter of fact, I know of a hit-and-run case where they thought they had apprehended the guilty party and he was miles and miles and miles away from there. He could prove it, and nothing was done about it.

I believe that the bus drivers of Ontario are excellent people. They are committed. They do a fine job. They care about the children they have in their custody and they're not going to use this in a frivolous way.

If the minister thinks they are going to be frivolous, they could have done it now. They could have identified people left, right and centre in the courts. They may not have been telling the truth, though, and that's why the courts are there. Conversely, the same information on vehicle licence plates will be required as it would for describing one's face.

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I continue to tell government members that this is an eyewitness account of a crime. If you were trying to seek out the best information as to who did it, I suspect one of the questions would be, "Well, did you see the car?" "Yes, I did." "Did you see the licence plate number?" "Yes, I did. They almost hit that young person." "Sorry, we can't do much about it under the current law."

We can change that here tonight and bring about vehicle liability, which so many groups in Ontario, including the police, believe to be necessary. The citizens for responsible driving believe it is necessary. Municipalities think it's necessary. School boards support it, parents, teachers, educators. I think we must address this problem that is going on far too often here in Ontario. I'm disappointed, quite frankly, that the bill wasn't brought to the resources development committee long ago. There should have been no need to bring this amendment to the comprehensive bill.

I wonder why Mr Froese didn't go the way of a private member's bill. I wonder why he thought it was necessary to put it into this bill. I don't know. Maybe he saw what happened to mine. Maybe he said: "I'm not going to wait seven months for the government to query me about this legislation of mine. I'm not going to wait for Mr Hoy to ask me why he feels buses and tandems must have their lights on, all of them." Maybe he didn't want to wait seven months. Maybe he wanted to protect the children of Ontario now. That's what we must do here.

I think I've proven conclusively that vehicle liability exists in Ontario. It works in those instances where it has been applied. We need to give school bus drivers the

mechanism so that we can have enforcement. You could raise fines to \$10,000 but if you can't catch anybody in a blacked-out vehicle driving too fast, time of day — members might be surprised to know that they pick up children in the dark. It wasn't supposed to happen in my particular county way back when restructuring was going on and the small schools changed to large schools. It wasn't supposed to happen, but guess what? They pick up children in the dark. How are you supposed to identify somebody who passes a school bus and it's dark out? These are the frustrations that the school bus drivers have. I urge the government to give all my words some sober thought and do it for the children here in Ontario.

I told the minister, "Bring in your own bill with vehicle liability." It didn't have to be mine, necessarily. I rarely call it mine. I call it Bill 78, but since we're getting into some political conversation here, I will. But I have always referred to it as Bill 78. It wasn't meant to put the government in a bad light; it was meant to protect the 810,000 children who ride school buses here in Ontario.

Mr Hastings: I'll try to be as brief as possible, but there are certain points that I think we need to put on the record that indicate where the government's coming from, without trying to be too confrontational or political.

First off, let me say that we would like to compliment Mr Hoy for presenting the bill dealing with protecting the safety of children while they're travelling and getting on and off buses, whether in rural or urban Ontario. I think it's important, however, to point out that Mr Hoy's staff was briefed on these issues back in May and we were pointing out that owner liability is not workable from either a practical or a legal viewpoint. My colleague Mr Parker is much more eloquent in terms of elucidating the quagmire of what constitutes absolute liability and vehicle liability and whether Mr Hoy's proposition could be dealt with in the courts in a very responsible manner.

As I understand it, absolute liability attached to a mechanical defect, in this case wheel separation, can be done without a constitutional challenge. Although I may not be totally correct in this, in trying to get my brain around the differences or distinctions between vehicle liability and absolute liability, the basic fact is that in the case of vehicle liability we have it attached to parking offences, which has been brought up, not moving offences. In my personal estimation, the moving offence that is cited in Mr Hoy's bill is quite different from when you attach a liability through a parking ticket. It's not moving.

Mr Hoy: Leaving the scene of an accident is a vehicle liability. They're moving when they're leaving.

Mr Hastings: There are other considerations to be brought forward when we're dealing with this dense legal issue. Even you, Mr Hoy, brought out the fact, in the case that you cited of your concern for protecting children while they're getting on and off a bus, a particular case where the defence lawyer challenged the bus driver as to the identity of the driver, that in point of fact it could almost be a twin brother or very close resemblance. That creates a problem in terms of identifying the person. That is going to absolutely be a key point in whether you could get a conviction in front of a judge in this province. You not only would have to identify the driver of

the vehicle which created the offence, but you also would have to provide, as you have noted, a description of the vehicle, including the licence plate. It would be shown in many courts, and I've seen it in front of some judges, going to help people when I was a city councillor, that many judges disapprove of schemes which are designed to get an individual who is charged with an offence to identify another wrongdoer. In other words, the bus driver who is testifying in front of the judge could be just as vulnerable to attack in a court as their testimony is to the description of the driver.

The other concern we have is that owners who are driving could elect to be charged as owners, and thereby they also avoid the six demerit points involved in an offence.

Mr Duncan has alluded to the point: "Just act in a simplistic manner and pass this law because this is good law in terms of protecting children." He attributes our lack of will in dealing with this situation as something that we are directed to do, or I am in a sense scripted every day as to how I think or don't think. The proposition is absolutely preposterous. We would agree that there ought to be some strong leadership on this, but I think it's also important to recognize that you want to have leadership on this issue that is well informed, well intentioned, foresighted and could resolve the issue in a court of law. I'm not so sure that Bill 78 in terms —

Mr Duncan: We are.

Mr Hastings: Yes, I know you are, Mr Duncan, but I challenge you to also cite your legal opinions in terms of how absolute liability will fail when we get to a constitutional challenge, if we do, in terms of the mechanical or wheel separation defects under that section of the trucking legislation.

I think tonight we have had some impugning of motives and I think that's extremely unfair. Somehow or other, because we disagree with you in terms of how the second provision of Mr Hoy's bill could be implemented doesn't necessarily mean that we don't accept or recognize that there is a problem in this whole area.

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What I find fascinating is that Mr Hoy said, and I'm taking him at his word, that there has been good research done around this, when in point of fact the courts on the points I've raised tend to look askance on somebody identifying an individual who is charged with an offence by identifying another wrongdoer.

It seems to me that what we need to find out — and I haven't heard from Mr Hoy on this, although perhaps he can fill in the blank — where in other jurisdictions, either in the US in state law or federal law under the highways administration down there or provincially, we have had successful prosecutions of cases where you have this offence in which a bus driver identifies the offender for all the reasons you set out. If there have been some, we would be interested in seeing those. I'm unaware of them. Perhaps the ministry staff are aware of them, but they certainly haven't been presented in briefing notes, which leads me to think this concern about identification of driver, description of plate etc is a problem inherent before the courts in other provincial jurisdictions.

I would summarize that it's not a matter of whether we lack the will to handle or deal with or pass Mr Hoy's

second provision of his bill, but whether the grounds for creating good law are here, that you would end up getting successful prosecutions under the way it is written. I think we have gone some way in being sincere in accepting the higher fines, and I have asked counsel whether there is a third way, a separate way of structuring legislation that would deal with the problem which you have so courageously identified. As far as we can see, public education has to be the way at this point in time.

Finally, we simply have a political difference of opinion. It doesn't mean that we are less sincere than you are in terms of trying to grapple with this problem. It's simply that we want to have a law that will succeed on a prosecution basis in the courts, and we would submit that the way the second provision of your Bill 78 is written will fail in that regard.

I'd simply say that it's not a matter of us trying to be political; there's a difference of opinion here on how you proceed. I think Mr Duncan has offered his good will today in trying to get this bill through, but then turns around and whiplashes us because we don't proceed with that section of the bill. If we could find a way that you could structure a strong, legal, solid alternative, then I think we'd be prepared to look at it. It's in that light that we should be accepting this legislation, Bill 138, the minister's recommendation, and include it for higher fines in the bill.

I would just simply leave it at that. We'd rather prepare to work with you to find a solid alternative that would end up in some prosecutions. You'd actually have a case and say, whatever the circumstances were, that the crown would feel comfortable in taking forward a piece of legislation, a section of law dealing with this issue on which there were some real prospects of getting a prosecution. Lots of cases are taken to court by defence lawyers, because they want to get paid, that fail on constitutional issues. I've seen it in condominium law, as an example.

All I would suggest is that we need to look at this in a stronger light. We accept your intentions. We think they're honourable. We just disagree on the methodology of it. It doesn't mean that we are playing political games. I don't accept that comment. I'm sure it was probably voiced in some frustration.

Mr Hoy: My comment may have been in frustration. After waiting seven months for the bill to go to committee, I think any reasonable person might be frustrated; also due to the fact that that committee had nothing before it for weeks and weeks and weeks on end. At subcommittee meetings I was told, "We didn't know you wanted it to go to committee." Why did I rise in the House and ask for it to go to the resources development committee? It could have gone to the committee of the whole. We asked on other occasions to have it go to committee — many — and it never happened.

The parliamentary assistant asks about what laws exist in other jurisdictions. Guess what? We can be leaders here, because we're getting calls from provinces, states from the United States, asking us about this. They say, "We have this problem as well and we'd like to get some handle on it so that our youth aren't jeopardized every day virtually on every route that the buses travel."

Yes, the calls have come to me and said: "This is something we'd like to investigate; we've got to do something about it. More people have cars; more people are mobile. We have more buses."

I walked to school, uphill and downhill; there were no buses. Now we have buses with 40 and 50 children on them. They're getting off in groups of two, three, four and five at a time, and this occurrence of people flagrantly passing the buses is happening too often. Lights are flashing on the back. It says on the back of the bus that you must stop. It's in the written word. There's a stop sign that comes out on the left-hand side near to the driver, which is not the point of law that one would be convicted under; it's the lights at the back of the bus. Some buses have put lights on top of the bus to get people to recognize they have to stop. Buses are a brilliant colour so that people can see them so visibly.

Yes, people from the United States and other jurisdictions in Canada have called and said, "We're interested in what you're doing there; we have the same problem." Can I cite where they may have a law like this? No, I cannot. But we want to be leaders and save the children.

The parliamentary assistant, at one point talking about certain aspects of the bill, failed to recognize what I've said here at least twice — I don't know how many times: vehicle liability exists in Ontario. I'm not trying to introduce anything that is completely foreign to the province. It exists. We want to have owners be responsible for those who are driving their vehicles on the highways today.

Mr Duncan: It's a big responsibility.

Mr Hoy: It is a big responsibility. Driving is a privilege; it's not a right here in Ontario.

To the question of whether it will stand up in court, I've made arguments about that already, to the fact that vehicle liability exists. Why are we sitting here trying to be the judges tonight? We are introducing a law that will clearly help in protecting the children of Ontario, and we're all sitting around trying to be a judge. That's not what we should be doing. We should be thinking about formulating a law that will protect the children, in light of the fact that vehicle liability already exists and that this government wants to bring in absolute liability. I can't believe some of the notions that are being put forth. 2030

The parliamentary assistant says, "We're a little opposed to what you're doing," but then on the other hand you want absolute liability. I, for one, cannot understand the rationale. So then what do you think? One has to think this bill's been around for seven months, nothing's happened, the government won't allow it to get into committee. The members say they don't like vehicle liability, although it exists today — and let me tell you that the vehicle liability under which photo-radar existed in Ontario is still on the books. It's still there. The only thing is the government has chosen not to enforce it.

It's simple. If someone came along tomorrow and wanted to bring that back, they could do it just like that because it's in the statutes now. It's just that they — "they" being the government — have determined they don't want to bring it in.

How can you say that you don't like vehicle liability? If you vote this down, I expect someone on the govern-

ment side of this committee to introduce a private member's bill to get rid of vehicle liability as it pertains to anything we have in this province forthwith because they're philosophically opposed to it. I'm going to be waiting for that one, when the government comes in and gets rid of vehicle liability in the aspects of everything in the jurisdiction called Ontario. If the government doesn't act on this when this bill receives royal assent, I will be pleased to tell the bus drivers who want vehicle liability, who know it's the only thing that will help us out in this situation: "Guess what? If you can see that driver's face in the dark of the morning, in the fog, in snowstorms, in the heavy rain, the minister will fine them a little bit more." That's what he wants to do. He'll fine them a little bit more.

Fines in themselves are not the total answer. I raised the fines myself in Bill 78, but it's not the total answer. As you see, I went further. Public education, I can agree, will help. I'd be foolhardy to say that public education around school bus safety in any manner would not help. Public education certainly would assist the driving public, the bus operators, the bus drivers, everyone involved, parents, teachers, children. But as I said, we've had huge campaigns in regard to drunk driving and all manner of other driving situations, huge campaigns.

What was it, Elmer the Elephant? Wasn't there an Elmer the Elephant at one time that went all through the schools and told the young children how to obey the laws? Look both ways. We had huge campaigns, brochures, bulletins.

Mr Duncan: Big bucks.

Mr Hoy: Yes, we had huge campaigns, but did it remove every driving infraction from Ontario because we told people that some of their actions were wrong? No, it did not. Unfortunately, it did not. People continued to disobey the law. Most obey the laws, but there are those few, some of them repeats, who do not obey the laws, and for the life of me, I cannot understand why the government doesn't like this aspect of enforcement when the police like it and the school bus drivers say it's the only thing that will assist them.

Then they have this conversation that they might be philosophically opposed to something that exists here in Ontario that I'm trying to apply to another part of the Highway Traffic Act to protect children.

I've met with the families of those who were killed by people going by school buses when the red lights are flashing, and they don't want their sons and daughters to have died in vain. They want some action. They request some action. There were 30,000 people who signed petitions seeking action.

Mr Duncan: Thirty thousand people.

Mr Hoy: Over 30,000. So the public is aware of this. They're keenly aware. We get mail from all corners, points, towns, large and small in Ontario. Editorials have been written and, in recent days, having seen a comprehensive safety bill, editorials have come out and said: "The minister missed the mark. He didn't put in vehicle liability." The editorial boards cannot understand why this government won't allow this to happen.

I think that all of the government arguments against this amendment have failed miserably. Vehicle liability

exists, they want absolute liability in some parts of the comprehensive safety bill, and all of their arguments have failed.

The argument that licence plates may be difficult to see: If they're not complete, nothing is going to happen. If some licence plate is erroneously put forth with only five digits, nothing is going to happen. You have to have a full plate.

Mr Duncan: You have to have lights on licence plates.

Mr Hoy: That's right, and the police tell me they're not enforcing keeping lights on licence plates these days either. There are too few policemen. Their roles are changing. As a matter of fact, they've told me that there are licence plates now that are almost completely rust. You know why? We buy little stickers every year and we put them down in the corner. Some of those plates are ancient and the people can't read them. They have turned almost completely to rust. In those cases, I guess those people are going to get away with something that they should not have.

Maybe, in the fortunate circumstance where we have a rusty plate, the bus driver is going to be able to identify the driver, because sometimes they meet them at the next stoplight. They look down and say: "Now I've had a good look at this person. I think I can lay a charge here." Of course I imagine when they get to court, they say, "What was that person driving that day?" They can't just get away with saying a car. They'd likely give more description than that. Even when they're giving the facial description of the driver, I surely expect that they're asked a little bit about the vehicle.

Arguments about making a mistake about one's face and making a mistake about one's licence plate number are equal in argumentative points. Some people could be described on one day and look quite different the next. Should they shave their beard? Should they take their moustache off? Should they grow one? Should they change the colour of their hair? Should they shorten their hair? Many of these features can change overnight. But a licence plate attached to an owner stays there.

So I would request that the government give strong, sober thought to supporting this amendment, one that is so vitally important to the young people here in Ontario. I say to the government members, your arguments have failed tonight.

The Acting Chair: Is there any further debate? There being none, all those in favour of the amendment?

The Acting Chair: A recorded vote.

Yves

Bisson, Duncan, Hoy.

Nays

Froese, Hastings, Munro, Parker, Smith.

The Acting Chair: The amendment is defeated.

We'll proceed to the next amendment, which is numbered page 18 in your package. You'll recall that we had unanimous consent that this amendment, which is not in order, would be considered by the committee and that

the debate on this would proceed, returning to the debate on 14A.

We need a mover for this amendment.

Mr Bisson: Just before the question, I have one point. I take it we're voting on Mr Froese's amendment. Is that where we're at?

The Acting Chair: We are returning to that subsequent to the presentation of the motion which is on page 18 of your package.

Mr Hoy: The motion, as we're calling it, number 18, was a housekeeping motion in regard to had the previous motion passed. I believe it was even said that this motion was not in order, but it would have been in order should the previous motion have passed. It's redundant now. The government has not seen fit to adequately protect the children of Ontario in regard to school bus safety and people passing those buses when the reds lights are flashing. So I would withdraw this amendment, as we've called it, number 18.

2040

The Acting Chair: The motion is withdrawn and we will return to the amendment that is on page 14A of your package. This requires unanimous consent of the committee in order to be considered because it is out of order since it deals with a section of the Highway Traffic Act which was not opened under the bill. Is there unanimous consent to consider this motion? There is. Mr Froese, the floor is open to place the motion.

Mr Froese: I wish to thank the committee members for the unanimous consent. I move that the bill be amended by adding the following section:

"12.1 Section 174 of the act is repealed and the following substituted:

"Public vehicles required to stop at railway crossings
"174." — and there's supposed to a subsection (1) in there, as I understand it — "The driver of a public vehicle upon approaching on a highway a railway crossing that is not protected by gates or railway crossing signal lights, unless otherwise directed by a flagman, shall,

"(a) stop the vehicle not less than five metres from the nearest rail of the railway;

"(b) look in both directions along the railway track;

"(c) open a door of the vehicle and listen to determine if any train is approaching;

"(d) when it is safe to do so, cross the railway track in a gear that will not need to be changed while crossing the track; and

"(e) not change gears while crossing the railway track.

"School buses required to stop at railway crossings

"(2) The driver of a school bus within the meaning of section 175, upon approaching on a highway a railway crossing, whether or not it is protected by gates or railway crossing signal lights, unless otherwise directed by a flagman, shall,

"(a) stop the school bus not less than five metres from the nearest rail of the railway;

"(b) look in both directions along the railway track;

"(c) open a door of the school bus and listen to determine if any train is approaching;

"(d) when it is safe to do so, cross the railway track in a gear that will not need to be changed while crossing the track; and

"(e) not change gears while crossing the railway track."

Mr Bisson: Let me get to the point. I'm going to be consistent. I'm going to vote for your amendment because I believe that private members' hour is an important time for the members of this House to be able to support what is the right thing to do. I will not do what the government just did on Mr Hoy's bill, which I think quite frankly was wrong, was wrongheaded, and I think the word "despicable" is the closest thing I can get up to in describing it. But I will vote because I want to be consistent. I supported this at second reading in the House when it came to private members' hour, the same way government members supported Mr Hoy's bill at second reading, and for that reason I will support it.

Second of all, I will support it because it's the right thing to do. This is something in the end that's going to assist and hopefully save lives, and that's what I care about when I come to this committee, not about what my party tells me to do when it comes to being able to deal with what was a private member's bill.

The other thing I would just say: I wonder what would have happened if Mr Hoy's bill had been advanced by a Tory member. I wonder if the arguments would have been the same or if the government members would have voted against their own member's bill. I think not. I think what we've seen here is the politicizing of the private member's process, something that I think is wrong. It's a dangerous road to be going down. More and more as we go into private members' hour, we're seeing this government using private members' hour for what are primarily political purposes or for advancing the government agenda, and I think that's wrong. That bastardizes the process of private members' hour and I think it's wrong.

I will vote for your bill because it's the right thing to do. It's about saving lives and I ain't going to play politics with this.

Mr Duncan: I'm pleased to support your amendment as well, and like my colleague in the third party, I don't understand how two minutes ago you could have defeated Mr Hoy's bill. I heard what I would consider to be one good argument put against that, one that I hadn't considered, and that was the question around points. It just shows, in my view, that we are not interested in meaningful participation by government backbenchers or by opposition members. We're prepared to support this amendment. We think it's good public policy, we think it's good law, just as we thought Mr Hoy's was good public policy and good law.

The government has argued it's leading the way in parts of this bill. We agree with them and we're glad that's the case, and we would have been leading the way with Mr Hoy's bill. It's unfortunate that the one time we have an opportunity to cooperate on a bill, the government members opposite — and I don't blame the parliamentary assistant or the ministry or the public servants here — the one time we have an opportunity just as legislators of all parties to cooperate on something and do something meaningful, you've chosen to defeat every one of our amendments.

We tried to take the partisanship out of this. The key amendment that I put forward today was defeated and I voted in favour of Mrs Marland's motion. Your motion:

I applaud your efforts and I know that you'll communicate your efforts to your constituents in your own riding and those people who have an interest in this bill. I think you should be commended for that. It's just unfortunate that the same kind of appreciation couldn't be extended to my colleague, although frankly, given the opinions of the police, the lawyers we've spoken to, the parents, the school boards and everyone across this province who agreed with what Mr Hoy did and proposed, they know full well that what we put forward is as important and as legal and as good as the amendment you put forward, and I'm pleased to support it.

I'm pleased to be able to add this to the bill. It takes the bill from — I suppose it would have been a seven, maybe up to a seven and a half. It could have been a nine, with Mr Hoy's amendments and some of our amendments; It's unfortunate you've all lost your nerve on this. I don't understand why; I don't think there have been good arguments put. But we'll be pleased to support your amendment. We congratulate you on your efforts as a member of provincial Parliament and we look forward to Ontario's school children being a little bit safer. We recognize that your bill was brought forward without a political label attached to it.

Mr Froese: I'd like to say at the outset of my comments, I appreciate the comments from the members with respect to this amendment. I also appreciate the comments that were made in the House on second reading by Mr Hoy, Mr Bisson and my colleague Mr Smith in support of the bill.

It is a non-partisan issue and it's about children, our most precious resource. It's about protecting them and keeping them safe. The amendment stems from my private member's bill that was passed in second reading last Thursday to come to this committee. I appreciate the support of the minister and the parliamentary assistant for incorporating it in the bill at my insistence.

In regard to the issue that been debated before with Mr Hoy's bill and the comments that we're politicizing what has just happened here because mine will pass and his wasn't passed, Mr Hoy and the opposition members have to remember that there are portions of his bill within Bill 138. There's a large portion of his concerns put into Bill 138, this bill. There are also 72 of the 79 amendments — maybe I'm not correct — that Mr Duncan had recommended also in Bill 138. So there has been cooperation, there has been listening.

I didn't get everything that I wanted from my private member's bill into Bill 138. As a matter of fact we had very, I wouldn't say vocal discussions, about the other section of my bill, and that was where there are buses travelling in tandem and the second bus, like the first bus, would have to put on his flashers and extend the arm so that people behind all the buses that were in tandem could understand that children were being taken off and put on the bus. As one of my constituents had witnessed, because that wasn't happening and because only the first bus was required to have its lights flashing and the arm extended, the drivers behind the second and third bus pulled out and nearly hit children.

2050

I wanted that in this bill as well, but what I had to do was negotiate what is going to come forward and what

isn't going to come forward. My understanding is that that same privilege was given to Mr Hoy. So I think there is cooperation if you want to cooperate. I don't think this is politicizing it.

Mr Bisson: Just like Len Wood saying this is like Jonestown, being told to drink the Kool-Aid.

Mr Froese: As far as my understanding, and I could be corrected on that, there has been a tremendous amount of cooperation in putting through Bill 138. Having said that, I didn't get all I wanted to put into this bill.

Mr Duncan: You didn't get anything.

Mr Froese: The member says, "You didn't get anything." Well, I'm not so sure, as my comments already alluded to. It's a difference of opinion. That's what it comes down to. I appreciate the support from the members of the opposition and I look forward to this being passed when we finish all the amendments.

Mr Hoy: I mentioned earlier in the evening and I mentioned at second reading of Mr Froese's bill that I would support it, and I support it here again tonight. It's interesting to note that he hasn't spoken very much about why this is required, but I will put it on the record for him.

He believes and the Ontario School Bus Association believes that there should be some continuity as to whether buses stop at marked and unmarked railway crossings. They prefer and believe that buses should stop at the crossings regardless of whether they're protected or unprotected. It takes the confusion away from the public, and I think that's good. I think it's very good that the driving public not be second-guessing what the buses are doing on the highway in regard to stopping at railway tracks. They shouldn't be wondering, "Are they going to stop or are they not?" Conversely, the public shouldn't be confused about whether they should stop or not stop when the red lights are flashing and they pass with reckless abandon and nothing is done about it.

The member says maybe he didn't get all he wanted in this particular amendment to the bill, and I recognize that. His private member's bill talked about buses that stopped in tandem. Part of the argument about that particular amendment is that anybody behind a bus with red lights flashing is supposed to stop. It doesn't matter whether it's a bus, a semi, a motorcycle, a car, a truck, a van or a utility vehicle, everyone is supposed to stop behind a bus when the red lights are flashing.

I think I know why there is an opinion that buses in tandem should put on the lights, but since it's not part of the bill, I won't speak to it tonight. But I think I know why people feel it should be that way.

To say that you have incorporated much of what I wanted in my bill is wrong.

Mr Duncan: Dead wrong.

Mr Hoy: The fines are there, yes. The minister did increase the fines. Yes, he did talk to me and say: "Pat, your fines are too high. I don't want them very high because they're not particularly enforceable. I don't want them too high."

He has told me almost from the moment the bill was introduced that he didn't want to empower bus drivers. Members opposite have come to me and said, "We can't deputize bus drivers." That's not what we're doing at all.

Vehicle liability exists in Ontario. If you want to say it, they are currently deputized to give eyewitness accounts of a person in a physical sense. They have to physically describe who the person is. You're not deputizing anyone, and if you want to use that term, you already did it or some other government did it long ago. I don't like the term myself, but these are some of the things the government opposite talks about, and it's absolutely silly.

Mr Froese said he had to negotiate what got into the comprehensive bill flowing from his private member's bill with the ministry, the parliamentary assistant and staff. He is very pleased with that and thanked them all. I don't recall the minister coming to me and saying, "Pat, let's negotiate what's going to happen from your bill in my bill." Clearly the minister and I disagree on the use of vehicle liability. I told him it was not negotiable, because to do otherwise would not have provided for the safety of the children in Ontario. The whole point of the exercise was to have vehicle liability introduced. But I'll support Mr Froese's efforts here. Anything to protect the children of Ontario in regard to school buses is important and I'll be consistent on that always.

I'm not going to belabour the point, but there are other aspects of children going to school in regard to people stopping their vehicles and driving straight at them and it doesn't have to do with getting off the buses. We'll have to attack the safety of our children one bill at a time. Some people across Ontario have called me and cited other instances where children are at risk and we're going to have to deal with that.

We now have school buses with advertising on them. I don't know if that's a good idea. I don't know if it's a good idea to take these yellow buses and plaster them with advertising. I think some day we're going to have to address that. Advertising by nature draws your attention away from what you are doing.

Mr Duncan: Paying attention to the road.

Mr Hoy: I have some thoughts in regard to advertising on school buses.

In an effort to bring consistency to the driving public, as the member wants to do, in regard to the safety of children and whether buses are stopping at unmarked or marked crossings, he is saying, "Let's have them stop at all of them," and I agree with that: consistency so that the driving public knows what we're doing.

It's too bad the government didn't want to send the same strong message to the thousands of people who pass school buses with flagrant abandon. I agree that raising the fines was perhaps an important part of it — my bill did the same, except higher — and education may be an important part of it, I agree, but those two components without the vehicle liability for the enforcement under Bill 78 in this comprehensive bill is a total failure by the government members.

I know the people who support Bill 78, and there are thousands of them, are going to be very, very disturbed with the government. I won't coach them, but they can see through what the government did here tonight. They will see through it all: a private member's bill passed on Thursday and incorporated into a comprehensive safety bill the next day by invitation of the minister, perhaps. I can only expect the minister knew. I can't imagine that

a backbencher would slide this in like that without the minister knowing.

In less than a week, a government private member's bill is law or heading to be law, and we have been a year trying to convince the government to at least give Bill 78 a fair hearing, which up until today they have not. I think Mr Froese was out of the room when I mentioned that my bill was introduced exactly to the day — my staff looked it up — a year prior to yours, June 19. We have been a year trying to get the government to bring Bill 78 forward to protect the children of Ontario. I think the public is going to see through this, far too clearly, what happened here tonight.

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The Acting Chair: Is there any further debate?

Mr Hastings: Yes, Madam Chair. Let the record show that there were difficulties with a certain portion of Mr Hoy's bill. Mr Hoy's staff — I don't want to belabour the point — were briefed on the difficulties in implementation of that section. We have cited certain specific problems if it were passed. Let us also show for the record that private members' hour has not in any way whatsoever, as far as I can see, been usurped so that we can get government policy through.

Let me cite a specific example; I think there are others, but I'll use the one of my own. In Bill 27 of a year ago, the Children's Law Reform Amendment Act, it was also attempted by members of the other two parties — there were administrative and bureaucratic problems in dealing with that specific act and it got retitled by so many people as a grandparents' access act or grandparents' rights act when it wasn't any such thing. That's just one specific example.

Let me cite other examples, as a government member from other committees, where we have had cooperation. The city of Ottawa a year ago brought forward legislation that would have almost rigidified the business improvement area there in terms of the farmers' market. What happened? If you go back and look at the record —

Mr Bisson: I was there.

Mr Hastings: Yes. We had division among government members regarding that specific bill in the regulations committee. I don't think you could cite for a moment that that was ordered by somebody, which is what seems to be put on the record, the impression that the opposition parties want to create. Can you imagine that the product of that particular bill came out of a coalition, an alliance, or whatever you want, between members of the opposition party and the government party?

Members of the Conservative Party on that particular day voted for, and some voted against, that specific bill. There is another example of where you have sometimes cooperation dealing with an issue. In this instance, many of us thought that would be bad law, and I think in that context it's appropriate to cite the problems that could have been brought about if we had passed the second section of Mr Hoy's bill in terms of its implementation.

We can cite other examples, and one final one I'll cite is the cooperation we've had from both parties regarding the referendum legislation.

The Acting Chair: Mr Hastings, I'm going to ask you, since the hour is late, whether this is relevant to the amendment before us.

Mr Hastings: It's relevant in the overall context of setting the record, Madam Chair, in terms of the impression that wants to be created that somehow or other certain people are winners and others are losers. I don't accept that proposition at all. Those are my final remarks.

The Acting Chair: Mr Hastings, I would suggest that if you are determined to bait the bears, you will get a response. Since you have considered it to be relevant, I will then recognize both Mr Bisson and Mr Hoy, but I do draw the committee's attention to the fact that this evening is progressing.

Mr Bisson: I would just point out you have woken up the bears again. The litmus test is, how many opposition private members' bills has this government accepted since you've come to office? Zero. Not one. How many members on the government side have had an opportunity to have their bills incorporated into government legislation or actually dealt with? Far more than what you see in the opposition. Yours is one and Margaret Marland's is another one, one that we accepted.

The point I want to make is this: When the parliamentary assistant says, "We're not using private members in order to advance government policy," I beg to differ. This Thursday morning we're going to be dealing with a motion on the part of Mr Pettit — I think it's Hamilton Mountain, or whatever his riding is — saying that we should move to make one big megacity in the city of Hamilton. That's pretty darn close to government policy as it's stated in the city of Toronto. All I'm saying is, that's wrong, that's not what we should be doing.

In the time of David Peterson's government and in the time of Bob Rae's, there were a number of examples where private members in opposition brought forward pieces of legislation that did get government support and move forward. I can think of Dianne Cunningham's bill —

The Acting Chair: Mr Bisson, we do have an amendment before us.

Mr Bisson: Yes, I know.

The Acting Chair: I realize Mr Hastings has broadened the debate, but I would ask that you think of all the committee members, that we not be too —

Mr Bisson: All right. I will just end it at that. I will just say the test is simply this: How many opposition private members' bills has this government actually dealt with? Mr Hoy's was there for over a year along with every other one. I'll leave it at that.

Mr Hoy: I'll try to be brief, Chair. I do recognize the hour of the night. However, I have a long history with this bill and know many more things about it than I've spoken here tonight. To suggest that we're being frivolous in our criticisms of how the government voted on the past amendment and this one and other things that have occurred — let me say those problems the minister felt may have existed with my bill, as asked through the Solicitor General and the Attorney General, have never been given to me in written form. We requested those in written form and we never had them. What is one to suspect? Do they exist? I don't know, but we asked for

those determinations in written form so we could be prepared to argue, debate or amend Bill 78. We have never got them in written form.

The history of Bill 78, to the parliamentary assistant, is very long indeed. I remember a lot and I know what has occurred to Bill 78 to date, and let me tell you it hasn't been all that pleasant. I'm not going to go into it all here, but let me assure you there have been occurrences through the last year that lead me to believe that the government may deliberately not want Bill 78 to go to the resources development committee, as requested by the whole House, all three parties.

The Acting Chair: Let me be very specific in the question of whether there's further debate on the amendment. If there's no further debate, I'll put the question.

Interjection: A recorded vote.

Mr Bisson: I'm on that side.

The Acting Chair: A recorded vote. Can I take it for Hansard? Mr Bisson, can I go ahead?

Ayes

Bisson, Duncan, Froese, Hastings, Hoy, Munro, Parker, Smith.

The Acting Chair: The motion is carried.

We will proceed to the page numbered 15. It is a Liberal motion. I understand this motion is not in order because it has adding a subsection to section 92, and 92 has not been opened. You would therefore require unanimous consent for this to be considered.

Mr Duncan: Yes, certainly I'd seek unanimous consent.

Mr Bisson: What's this? I agree.

Mr Duncan: Amendment number 15.

Mr Bisson: I've got to say, the members of the opposition are a reasonable bunch and I think we should give them the support. What do you think, guys?

The Acting Chair: The hour is indeed getting late. Is there in fact unanimous consent? Mr Duncan has sought unanimous consent. There's not unanimous consent; therefore, the motion cannot be placed. I believe that makes the next Liberal motion no longer in order. It will take us to government motion on page 16A, and I'd ask direction as to whether this motion is in order. This motion is in order. Is there a mover of the amendment?

Mr Duncan: Madam Chair, you kind of lost me there.

The Acting Chair: Page 16A. Is there a mover of this amendment?

Mr Hastings: Yes.

The Acting Chair: I need somebody to place the amendment.

Mr Hastings: I move that subsection 175(17) of the Highway Traffic Act, as set out in section 13 of the bill, be amended by striking out "subsection (1)" in the first and second lines and substituting "subsection (11) or (12)."

This is purely a change in the drafting. Originally I think it was section 1. It was an error in the cross-referencing of the subsections, Mr Bisson.

Mr Bisson: I throw myself in the competent hands of the parliamentary assistant, if only because of your tie.

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Mr Duncan: I would have thought it should read "subsection (2)."

Mr Hastings: It's 16A.

Mr Duncan: Well, we'll let that go.

The Acting Chair: I don't see a 16.

Mr Hastings: It's 16A.

The Acting Chair: Right, 16A is the page but we're referring — you've already placed the amendment. Mr Duncan, are you asking —

Mr Duncan: Well, perhaps I've misread it. I haven't looked very carefully at that section, Madam Chair.

The Acting Chair: The amendment is in order to the best of legislative counsel's awareness.

Mr Duncan: It has been made clear to me now by legislative counsel. Thank you, Madam Chair.

The Acting Chair: Is there any further debate? All those in favour of the motion? The motion is carried.

Shall section 13, as amended, carry? Section 13, as amended, is carried.

Section 14: I do not believe that there is an amendment to section 14. Shall section 14 carry? Section 14 is carried.

Section 15: There are no amendments to section 15. Shall section 15 carry? Section 15 is carried.

Section 16: There are no amendments to section 16. Shall section 16 carry? Section 16 is carried.

On section 17: Mr Duncan?

Mr Duncan: This is the short title of the act section, the Comprehensive Road Safety Act, and the opposition has attempted to display throughout our debate in the Legislature and here at clause-by-clause that, "Yes, this is a bill that we're prepared to support," and it is a good start. We don't think it goes quite far enough. We've proposed a number of amendments which I believe have all been rejected. We've supported the government's amendments to the bill. We don't believe the bill is completely comprehensive, but we believe it's a good start, and therefore will support this section in the bill, but again we stress that although we might grade this a seven out of 10, had you accepted our amendments to this piece of legislation, we could have made it a nine or a 10 out of 10, and we regret that the government lost its nerve on the issue of road safety in Ontario.

The Acting Chair: Is there any further debate on the motion to carry section 17? Mr Bisson?

Mr Bisson: Well, no. It's okay. The point's been made.

The Acting Chair: Any further debate?

Mr Hastings: I simply want to point out, Madam Chair, that it is a comprehensive road safety bill within the components introduced.

The Acting Chair: You are determined to bait the bears, Mr Hastings. Mr Bisson?

Mr Bisson: I want to bring you fishing. I know some great lakes up north where you and I could have fun. You throw the bait out on to the water and the trout just goes, bang, and takes off with it.

The Acting Chair: I'm not sure if Mr Bisson wants to contribute to the debate at this point. I do remind you, we are not finished, in case the committee members sense

that they are leaving. We have two items that we have to return to before the committee adjourns.

Are we ready to consider the motion on section 17, the short title of the bill? All those in favour? We are voting on section 17. There is no amendment. It is the short title of the bill. Shall section 17 carry?

Mr Bisson: Recorded vote.

Ayes

Froese, Hastings, Munro, Parker, Smith.

Nays

Bisson, Duncan.

The Acting Chair: Section 17 of the bill is carried.

We now return to what was on page 4 of the bill. This is deferred, and it has already been moved, I believe, by Mr Duncan. Are people with me in terms of where we are? Is there debate? This is number 4. It was section 0.3 of the bill, adding section 17.2 to the Highway Traffic Act. It had to do with the carrier carrying goods not prescribed in the regulations.

Mr Duncan: I moved that and I'll speak in favour, if you want you me to address it now.

The Acting Chair: We can resume debate. I believe it has been moved, so we'll resume debate.

Mr Duncan: This is again the hazardous goods issue that we raised earlier. Now I understood the government had some arguments against this particular amendment that it felt were salient to the debate. We've stated the case in favour of this. If it's the government's intention to put its case now, I'd be prepared to hear what it has to say.

Mr Bisson: Could we call the member for Mississauga South down here? She's the one that started all of this.

The Acting Chair: Is there further debate? Seeing no further debate, I'll put the question.

Mr Duncan: Recorded vote.

Ayes

Bisson, Duncan.

Nays

Froese, Hastings, Munro, Parker, Smith.

The Acting Chair: The amendment is defeated. I therefore believe the next motion would be to carry the bill. Shall Bill 138 — oh we need to place the long title. Yes, Mr Bisson?

Mr Bisson: Very quickly, I'd like to comment, if we're allowed on this one, because it's on the entire bill. I just want the record to show that both the opposition parties in this case I think have tried very hard to work with the government to pass what we think is a progressive piece of legislation. I think it's an example of what could happen if the government was only to try a little bit harder next time. I hope through this process you will at least remember us, if nothing else, and recognize that we can't always be rigid in the ground in regard to what our party colours are. We should be working more to try to represent our constituents rather than just listening to what our caucus whip has to say. Thank you.

The Acting Chair: Thank you, Mr Bisson. The next motion for the committee to consider is, shall the long title of the bill carry? Is there any debate? Seeing none, all those in favour of the long title of the bill carrying? The motion is carried.

That takes us to Bill 138, as amended. Shall Bill 138, as amended, carry? The motion is carried.

Shall Bill 138, as amended, be reported to the House? All those in favour? The motion is carried and the bill will be reported to the House.

Before the committee adjourns, there was one further item of business that was deferred to the end of our session, and since it was a motion that stands in my name, I wonder, Mr Smith, if you'd be so kind as to take the chair so I can present the motion.

The Acting Chair (Mr Bruce Smith): Mrs McLeod.

Mrs McLeod: Thank you very much. I'll place the motion, which is being distributed to you.

I move that the standing committee on social development request a report from the Minister of Transportation on policy related to the use of interlocking devices. This report is to be presented to the committee before the end of 1997 and is to include an analysis of research on the use of the interlocking device in other jurisdictions as well as an assessment of this research as it supports or calls into question current Ontario policy in dealing with drunk driving. The report will be considered in committee in public session.

I presented the motion in genuine concern that the interest of the committee in the interlocking device and the material that was presented to us, both through witnesses and through the research reports, will not have a chance to be fully considered. I think it's fair to say that in the couple of days that we've had the material we have not been able to do justice to the information that's there.

I point just to one piece of the research, since it is late, but one of the pieces of research that struck me was that the re-arrest rate over a 30-month period in this particular study was significantly less for offenders with the ignition interlock device than for those with licence suspension.

As all members of the committee will realize, the legislation that we've just passed puts a very heavy stress on the use of suspensions as a way of controlling drinking and driving. I've already expressed in committee my concern, and it seems to be borne out by some of the research, that long suspensions may in fact encourage people to drive without licences and without insurance and could, in spite of our best intentions, aggravate the problem we're trying to deal with. I don't think anybody would want to see that happen.

There appears to be research that is substantiating the fact that if you use the interlocking device in conjunction with shorter or moderate suspensions, you get a lower recidivism rate. I really believe that's something the committee would want to consider further. My motion is simply to allow the committee to receive a report and to consider it further. I think I've provided for a sufficient space of time for that to be realistic.

The Acting Chair: Mr Hastings, did you wish to respond to that at all?

Mr Hastings: I accept it.

Mrs Munro: I wanted to ask a question. When the Addiction Research Foundation made a presentation, I believe it was yesterday, I specifically asked them that question because we had had that earlier submission on the issue of the ignition technique. Their answer, as I recall, and obviously I don't remember it verbatim, was that they would want to look at some research into that. That suggested to me that they had none that was Ontario research. I don't have a problem with the suggestion you've made, but I raise this simply because of the fact that there seemed to be no pertinent Ontario research when I asked them that question.

Mrs McLeod: I don't pretend to be an expert on this — that's one of the reasons I'm anxious to see it come back to committee, because I acknowledged I had only become aware of it in these committee hearings — but my understanding would be that the research has been done in jurisdictions that have had some experience with the program, and therefore they've been able to do the longitudinal research and the comparative research. Ontario obviously has not had experience with it.

I asked the CAA people the same question you asked outside the committee rooms, because they do have a national perspective. They said they thought the research looked very interesting but they simply hadn't had an opportunity to address it as an association and had not

surveyed their members, and their evidence to us was based on the survey of their members.

I think the questions are legitimate ones in terms of what could be considered in a report to this committee. I'm just anxious that it not be lost.

Mrs Munro: If I might just follow up, obviously my question in asking them was in the same line of thinking as yours. I was just surprised that their response was to answer by being very specific in terms of not having looked at other jurisdictions. I was surprised at that reaction. I only raise the issue in terms of whether or not it would provide any kind of impediment to the time frame that you've suggested, given that they as an Ontario research foundation indicated they had no research themselves.

The Acting Chair: I don't want to curtail discussion, but perhaps those thoughts could be conveyed to the parliamentary assistant, who I'm sure would welcome those thoughts as they consider the resolution further.

If there are no further comments or discussion, the committee stands adjourned —

Interjection: We have to vote.

The Acting Chair: Oh, I'm sorry. Everyone's aware of the motion that's before us. You all have a copy of that, I presume. All those in favour? It's carried.

Thank you very much. The committee stands adjourned until the call of the Chair.

The committee adjourned at 2124.

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Mr Tom Froese (St Catharines-Brock PC)
Mr John Hastings (Etobicoke-Rexdale PC)
Mr Pat Hoy (Essex-Kent L)
Mrs Margaret Marland (Mississauga South / -Sud PC)

Also taking part / Autres participants et participantes:

Mr Ross Burns, senior counsel, legal services branch, MTO

Clerk / Greffière: Ms Tonia Grannum

Staff / Personnel: Ms Laura Hopkins, legislative counsel



**Legislative Assembly
of Ontario**

First Session, 36th Parliament

**Assemblée législative
de l'Ontario**

Première session, 36^e législature

**Official Report
of Debates
(Hansard)**

Monday 15 September 1997

**Journal
des débats
(Hansard)**

Lundi 15 septembre 1997

**Standing committee on
social development**

Subcommittee report

**Comité permanent des
affaires sociales**

Rapport du sous-comité



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Monday 15 September 1997

Lundi 15 septembre 1997

The committee met at 1532 in room 151.

SUBCOMMITTEE REPORT

The Chair (Ms Annamarie Castrilli): I would like to call this meeting to order. We are meeting today to consider the report of the subcommittee on committee business and some items for discussion which have arisen out of that. With your indulgence, I will read into the record the report of the subcommittee and we then will proceed to a discussion and vote.

"Your subcommittee on committee business met on Tuesday 9 September 1997 and recommends the following with respect to Bill 142, Social Assistance Reform Act, 1997.

"1. That groups and individuals be allotted 15-minute presentation slots for Toronto hearings, and 20-minute presentation slots for out-of-town hearings.

"2. That for Toronto hearings the Chair of the committee send out a press release informing the public and interested parties in Toronto of the hearings. The press release will contain the following information:

"The purpose of Bill 142, Social Assistance Reform Act, 1997.

"That the deadline for those who wish to make an oral presentation in Toronto be Monday 22 September 1997.

"That written briefs will be accepted by the committee.

"That this information also appears on the Ontario parliamentary channel.

"3. That the clerk of the committee will submit the names of those groups and individuals who have contacted the clerk's office and wish to appear before the committee in Toronto to the caucuses by 6 pm on Monday 22 September 1997.

"4. That for the Toronto hearings, the caucuses will submit a prioritized list of witnesses to the clerk of the committee for scheduling by 5 pm on Tuesday 23 September 1997.

"The lists may consist of caucus witnesses and/or witnesses from the names provided by the clerk of the committee.

"Witnesses will be scheduled by the clerk of the committee in rounds from the lists provided by the caucuses.

"5. That the committee travel to London, Ottawa, North Bay, and Niagara Falls during the four days of the first week of the next recess as stated in time allocation

motion. Dates for each location subject to logistical arrangements.

"6. That the subcommittee meet on a future date to make decisions regarding hearings on the road.

"7. That decisions regarding requests for reimbursement of costs incurred by witnesses be left to the Chair's discretion.

"8. That the Chair, in consultation with the subcommittee, shall make all additional decisions necessary with respect to public hearings."

Is there any discussion?

Mrs Lyn McLeod (Fort William): I appreciate the fact that my colleague who is our critic for community and social services and therefore the lead on Bill 142 attended the meeting of the subcommittee on my behalf, but I want to raise a concern and I know that it was a concern that she had presented in the course of that meeting. My concern is with the choice of communities that the committee is visiting, and very specifically my concern is that there is no northern community outside of North Bay. We specifically asked that this committee travel to Thunder Bay because we have had requests from people in the community to have the committee visit Thunder Bay, and I would like to know why that request was refused.

The Chair: There was a general discussion on the cities and there was some consensus on these particular issues. The parliamentary assistant felt very strongly about some of the choices and he brought forth four cities that he wished. It was discussed by the opposition critics and this was the consensus.

Mrs McLeod: I understand something of the process; I've been involved in it before. I understand that normally in reaching a consensus there is at least some acknowledgement given to the two opposition parties in terms of communities they would like to see visited. In this case, I understand there was virtually no acknowledgement of the wishes of the opposition caucuses.

Mr Jack Carroll (Chatham-Kent): Of the four communities that we finally settled on, only one was on the original list that I started out with, so there was indeed considerable consensus.

Mrs McLeod: Your list was somewhat limited, Mr Carroll, to begin with.

Mr Carroll: Well, somewhat limited as it always is when we get into discussing which municipalities we're going to travel to, but the three of us did finally come down to accepting this particular list. It wasn't what any

of us wanted, but it was a compromise between what all of us wanted.

Mrs McLeod: I don't believe this committee in the past has worked on an assumption that the government comes in with a list of communities that are not to be visited under any account, regardless of whether or not there are requests from the opposition caucuses to visit those communities. I want to register a very real concern about the process that was followed and the premises under which this committee is going to travel.

The Chair: Mrs McLeod, just for the record, I indicated during the subcommittee that there were only two criteria that we could consider. It wasn't the preference of any particular individual. The two criteria that we had to look at were the geographical locations to which the committee travelled and, second, the number of people who wanted to present in each community. Those were relevant criteria to consider and no others. Mr Kormos.

Mr Peter Kormos (Welland-Thorold): First I should acknowledge that Ms Martel was on the subcommittee on behalf of the New Democrats. Ms Martel is in committee room 1 where the government is not listening to injured workers in its consideration of Bill 99.

Mrs McLeod's point I must say is well made. Appreciating that North Bay is the gateway to the north, let's cut to the chase here: It's not what we're speaking of when we speak of the north and the unique qualities of the north. The omission of the north in terms of a sitting location is a serious, serious oversight and speaks either to the government simply not really being serious about having thorough public consideration or even modest public consideration or, more significantly, to their not being acutely aware of unique problems in the north and among northern communities in terms of poverty, unemployment and the impact of their amendments.

I have to go further. Appreciating that I wasn't on the subcommittee and appreciating that the subcommittee undoubtedly reached some sort of — if my friend wants to call it consensus, so be it, but obviously within the constraints imposed by the government — this simply isn't an adequate agenda.

The government's been crowing about this bill. This is one of the pillars of their Common Sense Revolution. It impacts on so many people. It's, as you know, two distinct parts. In effect, it's two bills in one and it covers such a broad area. This agenda is simply totally inadequate.

I know Ms Lankin is going to address it and I'll be prepared to discuss this further, but I think this committee has to revisit the whole agenda and the whole inadequacy of a mere four communities, a mere four days, and some very modest sittings here in Toronto. The community simply isn't going to be accommodated. They deserve to be heard.

1540

Mrs Sandra Pupatello (Windsor-Sandwich): We should be clear that we on that subcommittee were told in very certain terms that Thunder Bay was not to be visited and would not be considered. It was also suggested at that time that, given the choices the government wanted, we should be fairly happy for what little we did get. Unfortu-

nately, the fear that was parlayed was that if we didn't agree, the whole slew of cities would then be opened up to the committee as a whole, which of course is dominated by a majority of Conservative MPPs, just for a little history on how those cities came to be selected.

Our concern was that we looked at the list of those who, without any advertising, had already expressed a significant interest to be heard at committee. There were hundreds or just under 200 at that time — I think 150 or so — of Thunder Bay organizations that had already applied to be heard, and that's why we really thought Thunder Bay should be in the mix and replace North Bay. We had not heard from anyone that people necessarily wanted us to go to North Bay and thought Thunder Bay would be a very easy replacement for the North Bay selection. That's some history I think you need to know.

Ms Frances Lankin (Beaches-Woodbine): I actually wanted to raise another couple of questions about the report. It's not specifically on this issue. I echo the comments —

The Chair: Could we deal with this issue first and then we'll come back to yours?

Mrs McLeod: I would like to just follow up the comment that you made, Madam Chair, which was that there were only two criteria which could be, and I believe should be, considered in selecting communities, one being geography so there's representation across the province. I really don't believe that going only to North Bay accesses northern Ontario, gives enough northern Ontario people an opportunity to present to the committee. The second criterion you indicated that would be considered was the number of people who had asked to present. Since that clearly is a criterion that is coming into question, based on what my colleague just said — that there are a number of people from Thunder Bay who had asked to make presentations and none that she's aware of from North Bay — I would appreciate seeing the list of people who had already asked to present, even before the committee hearings were advertised.

The Chair: I believe we have that list. It was before the subcommittee. Has it not been distributed to the committee? We'll arrange for it.

Mrs McLeod: I want it for the committee record basically to have some verification that one of these communities being chosen was one that had not asked for representation, and those not on the list had.

The Chair: The clerk will distribute that list as soon as possible.

Mr Carroll: If I could just make one more point on the choice of cities, I have been involved, as all the members have, in subcommittee meetings before. The subcommittees make some recommendations to the main committee. If in fact the people who come to the subcommittee meetings are not empowered to make those recommendations, then I guess subcommittee meetings become a bit redundant.

We started off negotiating, as we always do, the communities we will visit. Whether we visit four or not is not up to us; the time allocation motion allocated how many

communities we would visit. We chose four. None of us got exactly what we wanted, but we all compromised on the four. So now to come in and just say, "We didn't choose this one, we didn't choose that one because there was a list of names from this one and not a list of names from that one," I appreciate that. A hundred communities probably wouldn't be enough for the opposition, but four is what the time allocation motion gave us. These are the four we are recommending. If they're not the proper four, then I guess the committee will vote them down in voting on the report.

Mr Frank Klees (York-Mackenzie): I just want to register the fact that I think Mrs McLeod's point that there were X number of people from Thunder Bay or any city that may have written in advance of an agenda having been set or any decisions having been made about where or when these hearings would be is absolutely irrelevant. If that were to become a criterion as to where these meetings were going to be held, then I think very simply you'd do it on that basis and you'd say, "Let's start a letter-writing campaign." Mr Kormos will have someone in his town every time, because I'm sure he'll get out his mailing system and his computer file and will be deluging this place with letters.

I think we have to rely on the wisdom of the subcommittee. If someone has an opinion about this, they should appear there and argue their point, as I'm sure was done and a decision made based on that.

The Chair: I appreciate your point of view, Mr Klees, but the criterion stands. If you look at the list, you will see that the requests that have been made have been made by organizations that represent Ontario quite broadly. It's not the letter-writing campaign that you may be suggesting.

Mrs McLeod: I want to point out I am trying to keep this discussion based on the procedural issues. Indeed, Ms Papatello attended in my place fully empowered to have the discussions and reach some consensus, but there were procedural points which nobody would have expected to arise which I am raising because I feel that they are not following the normal procedures for a committee.

Specifically, the criterion that the Chair has indicated is that you look at geography, and the second criterion is that you look at whether or not there are a number of people from a community who have asked to make representation. I'm not suggesting, Mr Klees, that this be a popularity contest. I am suggesting that when the government representative comes to the subcommittee prepared to boycott particular communities, that is an unfair procedure. I can only interpret the fact that Thunder Bay was not even going to be considered in spite of the fact it had asked to be considered, and a community that had not asked for representation was on the list; that my community — it happens to be my community — was not to be considered under any conditions; that there was not a basis for the three people who were invited to attend the subcommittee to truly negotiate and reach a consensus. I really feel that the procedures for this committee have been violated and that the committee will begin its hearings under very unfortunate circumstances.

Mr Carroll: Just as a point of interest on me boycotting —

The Chair: Just a minute, Mr Carroll. Ms Lankin is first; we'll come back to you.

Ms Lankin: As I indicated, I have another issue I want to raise, but just on this particular point, Mr Klees, if we were in a situation which I think is more the norm, where we have some time before committee hearings commence and we advertise and let people know that committee hearings are happening and we invite presentations, your point with respect to who may or may not have indicated early on would be well taken. In this case, we are not going to have broad advertisement. We're sending out a press release. This is quite different from how, particularly on controversial bills, the public has been notified of committee hearings in the past. I think the committee is left with less possible information in terms of making some of these decisions. It is of interest to note that there have been many applications from Thunder Bay in particular.

But the point that I want to stress is that it is critical on any piece of legislation which is so important and has such a massive impact in the province that northerners have appropriate opportunity to present before the community. If we were having many more days of hearings, as I wish we would be having with such a controversial bill, particularly with two bills put together, I think it would be appropriate to go to North Bay as one of a number of communities. But if we only have four days and we only have the opportunity to have one day of hearings for northern Ontario, I think North Bay, which is widely referred to as the gateway to the north and is not situated, by most people's view, in any kind of a centralized access or centre of population for northern Ontario for either northeast or northwest — and I realize we're down to making a decision whether we go to northeast or northwest — I think at the very least we, as a committee, should be ensuring that we do have a true northern population centre that we are going to. I think, unfortunately, that we would have to look at a centre other than North Bay to fit that criterion if we only have the one day to go to the north.

Mr Carroll: If I could deal with a number of issues, one about me boycotting Thunder Bay, that did not happen. The first city that came up was the city of Chatham, which I believed made sense in view of its physical position between Windsor, London and Sarnia. Mrs Papatello said, "No, we're not going to Chatham." When it came around to talking about Thunder Bay, I said, "We're not going to Thunder Bay," and she said, "Why?" I said, "For the same reason you don't want to go to Chatham." So that was the boycott.

The Chair: With respect, Mr Carroll, I indicated at that point in the discussion that those kinds of preferences were irrelevant, that we were only really talking about geographical issues and the number of presenters that we could expect. I would thank you, please, to just sort of stick to the facts rather than —

Mr Carroll: I'm trying as best I can.

I'd like Ms Lankin to know that I also suggested that instead of North Bay we go to Sault Ste Marie. That was rejected by the subcommittee and they chose North Bay over Sault Ste Marie.

The Chair: I'll recognize you in a minute, Ms Pupatello. You are being given the list of the proposed presenters or people who've asked as of September 9. We've done, just for your information, a tally as of today's date of the people who have asked to participate. We have five from Thunder Bay, 80 from Toronto, 13 from Ottawa, eight from London, none from North Bay and none from Niagara Falls so far.

I think Mrs Pupatello was first, then Mr Klees.

1550

Mrs Pupatello: I might say regarding Chatham that what the discussion unfortunately fell to was some selection of a community in southwestern Ontario. If we were going to choose a community in southwestern Ontario, then very clearly you would choose Windsor as opposed to Chatham. It's a larger centre so that you will have, just by virtue of its being a larger centre in this regard and what the bill deals with — looking at those who have already indicated an interest in presenting, the majority are in Windsor. Therefore, you should select Windsor as your southwestern centre.

The point is that your representative on the subcommittee threw all of the pieces together: "If I don't get this, you don't get any more time in Toronto." Even though they're completely different issues, this is the kind of negotiating — you insisted on putting everything together. The point is, if it's going to be in southwestern Ontario and you use one of the criteria allowed, then you would very clearly select Windsor as your site because of this list alone. I'm just eyeballing; you've got nine from Windsor alone. Very clearly, you would select Windsor as the site.

But, Mr Carroll, as a rep to the committee you were very certain about where you will and will not go. If you're prepared to open it up again, my fear is that you're going to want all the cities and towns you brought to the table, none of which have reportedly expressed an interest in presenting, which is a function of the criteria. If you're going to redo the subcommittee, then I'd appreciate your looking at the list and going from that list. If you only went from the list of expressed interest, you would have done a number of things, including allowing for more than five hours in the city of Toronto. Right at the outset, you would have acknowledged that, just by virtue of the people who have expressed an interest. Windsor is probably second on the list in terms of who and how many and what communities have expressed interest in presenting to the committee.

Let's be fair and let's get all of the information out here. If you are going to use the criteria, you most certainly wouldn't be in Chatham and you certainly would be in Windsor, you certainly would be in Toronto and in Thunder Bay. For some reason which you refused to give at the time, Thunder Bay would not even be considered by you. The threat at that point was you'll just take it back to the whole committee, and of course by your majority on

committee we won't have any of the cities we would like to have. That is exactly how it played at the subcommittee. If you're going to start dredging it all up, you'll have to dredge it all up, because that's how it was.

Mr Klees: I am sorry I didn't get invited to the subcommittee. It sounds like a good meeting.

I wanted to follow up on my colleague's very reasoned comments about the importance of having regional representation on the list here. I happen to agree with that. I think it's important that people from all regions in the province have an opportunity to make their submissions. When I look at the four cities, I think we've got that, frankly. We've got eastern Ontario represented, we've got southwestern Ontario and we've got Niagara Falls and Toronto in terms of central Ontario. The question now remains, is North Bay —

Ms Lankin: Just because it's got "North" in the name doesn't mean it's in the north.

Mr Klees: I've been to North Bay and I've also been to some of the other cities.

Mrs Pupatello: You should want to come to Windsor based on your experience.

The Chair: Let Mr Klees finish, please.

Mr Klees: There is some logic to my comments here. In the past when we've had presentations, quite often there have been certain groups that had common interests that they wanted to bring before the committee. It's not news that in various centres, whether that be throughout the north or throughout Ontario, there are recurring themes, and that's appropriate because, depending on what organization it is, obviously they share some common concerns.

I would think that when we announce the fact that for northern Ontario we're going to host these meetings in North Bay, if there are organizations either in Thunder Bay or Sault Ste Marie, they would presume upon their counterparts in North Bay to make the appropriate representation in an organized and collaborative way. The other thing I'd suggest is that, whether it be in Thunder Bay — you know, Thunder Bay for me is perhaps a more difficult place to get to than North Bay.

Mr Kormos: No kidding.

Mr Klees: Let's say it was Thunder Bay and I'm from North Bay. Then I travel to where to make my presentation? What if I'm from Sault Ste Marie?

Ms Lankin: You are closer to Toronto.

Mr Klees: What if I'm in Sault Ste Marie? Do I go to Thunder Bay? Where do I go?

The Chair: Mr Klees, I should tell you that under the new rules you can't speak for longer than 20 minutes.

Mr Klees: Who introduced that?

The Chair: You did.

Mr Klees: Okay. How long have I got?

The Chair: You have a little time.

Mr Klees: One minute left? I guess what I'd suggest is that if there are people from Thunder Bay who want to make presentations, we accommodate them in North Bay and make sure they get on the agenda. I think we should hear from North Bay. I think we should hear from Kenora. I think we should hear from these places.

Ms Lankin: On a point of order, Madam Chair: I just wanted to clarify your ruling with respect to the time limits on Mr Klees. I don't believe —

The Chair: No, no, he wasn't close to 20 minutes. Don't misunderstand.

Ms Lankin: Thank you. I don't want him to be cut off.

The Chair: I think Mr Klees understood my meaning.

Mr Klees: My light went on but I didn't say anything. Thank you.

Mr Kormos: Chair, this is very troubling. As I understand it, the time allocation motion which was passed by the government in the House is what restricted the hearings to a mere four days out of Toronto and a mere two days — tell me I'm wrong about that.

The Chair: That is the time allocation motion.

Mr Kormos: And not the full Orwellian days, but just the regular days; that is, till 6 o'clock, not the 9:30 days, not the Newspeak days.

The Chair: You're correct in part. That is true for outside of Toronto. Within Toronto it's a limited time. I think we have about five hours in total over the two days.

Mr Kormos: I think, in all fairness, all members of this committee, government members as well, can concede that this is simply an inadequate period of time for anything akin to a proper consideration of the bill, especially in view of the fact that it's two major issues put together in one bill. The issue here isn't so much what cities you can and can't go to. It's that since there are only four days out of town, it's only going to be four cities. Even with the argument of Mr Klees about whether or not it's easier to get from North Bay to Thunder Bay or Thunder Bay to Toronto or whatever it was he was trying to explain, the fact is these people can't appear before the committee anyway because there's no time in Toronto for them to appear before the committee. It's not a matter any more of merely excluding cities. I look at the list here and this is the tip of the iceberg. It's trite for me to say that but this is the tip of the iceberg because you haven't had any publicity about the committee process yet through the form of advertising or press releases.

I endorse Mrs McLeod's argument about the complete absence or the complete denial of the existence of the north. But it goes beyond that because none of those people are going to be able to participate, whether they're travelling to North Bay, Niagara, Toronto, Ottawa or London. This committee has an obligation — and I believe it can on its own motion — to determine that the time allocation motion simply didn't provide for adequate time for anything akin to a proper consideration. This committee should be making a motion calling upon the House leaders, because it's my submission that by agreement they can do anything they want virtually — we're talking about consent — to provide proper time.

I'm hoping the Tories who voted for the time allocation motion are going to tell us today that they voted for it mostly because it was a time allocation motion in terms of getting this thing into committee. I'm hoping they'll indicate they voted for it notwithstanding that they suspected that the time frames being proposed were far too restric-

tive. I think that's what this committee has to do now. You're going to have people thoroughly ticked off, to say the least. This committee, if it proceeds with this agenda, is inviting some major and angry responses from a whole lot of parts of Ontario that are going to know that they have been denied access to the process.

1600

Mrs McLeod: It's exactly this discussion that brings me back to what, Madam Chair, I think you tried to establish as two fairly objective criteria for the committee to use. Given the fact that we only have four days outside of Toronto, these were not going to be easy decisions, and I believe that the use of your objective criteria would have taken away the need for this discussion.

Mr Klees, nobody is arguing about geographic distribution. I may quarrel about whether or not North Bay gets you really into the north, but the fact that there has to be, with only four days, each of the four geographic regions outside of Toronto, everybody would agree. The question then is, which communities in those geographic areas do you go to? The second objective criterion you tried to put in place, then, was that it would be based on the numbers of people seeking representation. I feel that would have been objective, that it would have prevented this kind of discussion, and I still don't understand why that criterion has not been accepted by the committee.

I wasn't sure exactly what reasons Mr Klees was offering. They didn't sound terribly objective to me, Mr Klees, I must confess, whether it was the recurring themes and the fact that you might hear continued opposition to the government in Thunder Bay, which I'm sure you would, or the difficulty for Torontonians in getting to Thunder Bay versus North Bay. I hope I've misinterpreted you, because that infuriates northwesterners.

If I heard you suggesting that perhaps those who wanted to present in communities outside of Toronto who can't be accommodated because the committee's not visiting their community would be invited to present in Toronto and would have their expenses paid to present, I would certainly be prepared to support that motion coming from a member of the government and think that could be quite productive. But I can't ask the Coalition Against Poverty in Thunder Bay to come up with the \$900 for each presenter to come to Toronto to present.

The Chair: For the record, Mrs McLeod, if you read the subcommittee report, the decision with regard to reimbursement has been left to the discretion of the Chair should the subcommittee report be adopted.

Mrs McLeod: What I'm doing is pointing out that there were, at last count, five presenters from Thunder Bay. I don't know how many others from the north nor do I know how many would have wished to present if the committee was coming. I think I'm appreciating Mr Klees's suggestion that they should be given an opportunity, but I suspect that it is beyond the mandate of the Chair or the budget allowed to the committee to ensure that all of those Thunder Bay individuals would be brought down at the cost of about \$1,000 per person. I'd appreciate your clarification on that.

The Chair: Mrs Pupatello, we've done a tally of requests from Windsor to date. We have 15.

Mrs Pupatello: Fifteen? So that would be over the 10% I had just calculated. What's the total? It was 104.

The Chair: It's 145 at the moment.

Mrs Pupatello: You're still at the 10% mark of presenters from Windsor alone, so for Windsor not to be on the list I think is a significant sacrifice.

I must say, though, to my colleagues' comments and Mr Klees, even if you had the space — it's like saying in Windsor when you need emergency service, "Go to the other emergency." That's how ridiculous that is, because in Toronto what we were studying at first blush was two and a half hours a day on September 29 and 30. Two and a half hours a day would have meant, as we calculated at even just 20 minutes per presenter, you were looking at three per hour and a total of five hours. That was a total of 15 presenters for this area, in Toronto. That was it. Where you would ever find room to bring in people from Thunder Bay — you can't even think about it because there is no room.

If I can make a suggestion as an addition that may help us over this hump, we could ask the House leaders at their meeting to authorize an additional day to be added to hearings, a specific day to travel to Thunder Bay. Mr Carroll at this point has to go to the House leaders and ask their permission to extend the days in Toronto on September 29 and 30 into the evening so that we have five hours a day instead of two and a half hours a day. That has to be granted through the House. So since we have to go to the House anyway for that extension of the Monday and Tuesday, adding the hours for Toronto, we at the same time can ask them to add the additional day in Thunder Bay and that probably will solve the problem. Mr Carroll will get North Bay, which is what he wanted, and we'll be able to say, at minimum, for the people of Thunder Bay, with the significant number who have already responded, that yes, we'll go to Thunder Bay as well. I'd like to add that as a motion for an amendment to the report.

The Chair: We can't entertain an amendment to the subcommittee report until we adopt the report, which hasn't been done yet. Could I ask for someone to move adoption of the subcommittee report, and then we can entertain amendments.

Mr Carroll: Madam Chair, I'll move adoption of the subcommittee report.

Having moved it, I would like just to clarify a couple of issues. On number 6, "That the subcommittee meet on a future date to make decisions regarding hearings on the road," because we don't know the dates that we're going to be on the road, we don't know the times, those are the kinds of decisions we're talking about there. They're not about extending them or which cities. Those are just about the logistics of those particular situations that we're going to go to. On number 8, "That the Chair, in consultation with the subcommittee, shall make all additional decisions necessary with respect to public hearings," keep in mind, of course, that we're dealing within the terms of the time

allocation motion. I just wanted to clarify those two points.

Mrs Pupatello: You mean not counting the decisions that have to go back to the House, like an additional day in Thunder Bay?

Mr Carroll: I am not prepared to take anything like that back to the House. We have a subcommittee report that I believed we had agreement on. It seems that I was misunderstood in that agreement. But I have now moved adoption of the subcommittee report.

The Chair: There are two separate matters, with respect, Mr Carroll. You've moved adoption of the subcommittee report. We can now open to entertain amendments if people wish to make any, and I understand Mrs Pupatello does.

Just for the record, though, with your clarification, if I could just bring your attention to another matter that is still to be decided with respect to the hearings outside of Toronto, and that's the whole issue of advertising, which was also left to be decided. I imagine that would be under section 8 with respect to decisions that need to be made with respect to the public hearings outside of Toronto. That also includes the advertising we would have to do. So as long as we have that clear on the record.

Mrs Pupatello: I move my amendment.

The Chair: Your amendment?

Mrs Pupatello: Yes. Do you want it repeated now?

The Chair: Please.

Mrs Pupatello: I would have an amendment or an addition to the subcommittee report on number 9, that we add an additional day as a trip to Thunder Bay.

The Chair: Perhaps you can write it down, but it ought to be a request to the House leaders.

Mrs Pupatello: Yes. We would request that the submission go to the House leaders. As it stands, this has to go to the House leaders for approval anyway. It would be requested of the House leaders that an additional day on the road be added and the fifth day would be for participating in hearings in Thunder Bay.

The Chair: Do I have a seconder for that amendment? Mrs McLeod. Discussion on the amendment?

Ms Lankin: I'm going to fold in my other issues at this point in time because they have to do with respect to potential changes to the time allocation motion. I am a bit confused by something in the subcommittee report. You may have dealt with this, Mr Carroll, before I came in. I'm sorry, I was a few minutes late this afternoon. I had understood from speaking to Ms Martel that one of the things the committee had arrived at agreement on was to make a recommendation to the House leaders that the times of the sittings in Toronto be extended on the 29th and 30th for 6:30 to 9 o'clock in the evening sessions. Am I correct on that, and why isn't that in the —

The Chair: Ms Lankin, that issue was left for the committee to decide. There was no consensus on that, so that we can deal with immediately after the subcommittee report.

Mr Carroll: If I could clarify that just a little, as I understood it, we had agreement on the subcommittee

report and on four other conditions, one of them being what you just suggested. We had agreed, three of us, that we would approach the House leaders on that. Now I come into this committee today and I find that we have argument about this report that I thought we had agreed on and now we're asking for an extra day in Thunder Bay. None of that was what we had agreed to, so quite frankly all of those agreements that I understood we had made —

Ms Lankin: Don't say that yet, just so you don't back yourself into a corner here. A couple of things I think have developed. As I understand it, and let me sort out some of the conditions, I think there was debate with respect to clause-by-clause and the time allocation motion language that said that would be done in the next recess, what that next recess was, whether it was the fall recess or the December recess. There was discussion about some extra hours in Toronto and there was discussion about time for the minister to be able to present and the other parties to be able to respond.

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As I understood it, on those points, separate from the rest of this, there was some agreement that the committee would be asked to recommend to the House leaders that there be the extension of the times in Toronto for evening sittings, and in response to that, the minister would be invited for 20 minutes, the other two parties would be able to respond for 20 minutes, and the argument about what "next recess" meant would go away. Do I have that in a nutshell? One thing I'm wondering is, why is that not here as part of the report?

If I could just give you a bit more context, some other things have developed since your subcommittee met, and this is an issue the whips are trying to deal with. The time allocation motion is kind of vague in its wording in that it calls for the travel and the hearings to be held in the first week of the recess. It would have been more helpful had the actual week been established. The problem that gives rise to is that while none of us are quite sure yet when the first week of the recess will be, there is a very good chance that it may be the week following Thanksgiving weekend, which would move this to Tuesday to Friday.

From the whips' perspective, that had been a week in which we were hopefully, on all three parties' part, planning not to schedule hearings. So it has been agreed to by the whips of all three parties, and the House leaders have no problem with this, that we would actually schedule these hearings for this bill in the week following Thanksgiving. That requires a motion to come back to the House because it will be changing the time allocation motion. There has been an agreement that if that motion comes back with a number of elements in it, it will be treated by unanimous consent during routine motions, therefore not an order of the day, and it won't be debated. So there are some developments that have happened.

In my discussions with the chief government whip, I also indicated that I thought as part of that motion there would be the extension of the hearings in Toronto, and it is possible that we could, as a committee, if we chose, in-

clude in that a recommendation for a fifth day of hearings on the road in Thunder Bay.

Let me suggest to you that the package is workable there. A motion has to come forward. It will set the date of the hearings, the travel, the week following Thanksgiving week. It would hopefully extend the Toronto hearings for two evening sessions on the Monday and Tuesday nights, which will allow us to have an additional five hours of hearings. Given that we will be travelling in a week in which we have all five days of the week — it won't be truncated by the Thanksgiving holiday — we could actually travel Monday through Friday and I think we could accommodate the concerns that have been raised about northern Ontario.

As a negotiator and a mediator, I thought I saw a deal coming here if we were to accommodate the member for Port Arthur and the member for Chatham-Kent in their own particular desires with respect to their communities. It seemed like maybe a deal could be made, but an alternative suggestion has come forward, which is to add a day, and it is doable.

The only discussions I've had with the other whips, which have been translated to House leaders, and as I understand it, they are all fine if this committee recommends, are with respect to scheduling travel the week following the week of Thanksgiving and extending the Monday and Tuesday.

In any event, I think there needs to be an amendment that would reflect that coming from the committee and I would just speak in favour of adding Mrs Pupatello's recommendation to that as well.

The Chair: Are you making a friendly amendment to the amendment?

Ms Lankin: No, I think at this point in time I'd like to get some indication from the government whether there is any willingness and support for Mrs Pupatello's amendment. We'll have to come forward with the second part of this as well.

The Chair: The issue has been raised. Mr Carroll and then Mr Klees.

Mr Carroll: If I could clarify, I understand that exactly as you so eloquently explained it. The House leaders have to deal with part of that, and I thought our responsibility would be to write a letter requesting them to extend the hearings in the city of Toronto.

The idea of an extra day of travel to Thunder Bay is brand-new today. I've never heard it before and I'm not prepared to support that request. My concern is that we are now getting into add-ons to what I thought we had agreed to was a deal among us. If that is the situation, then I'd rather go back to the beginning.

Ms Lankin: Could I ask a question, just to follow up on that? There are two parts to this question, Mr Carroll. I understand that the subcommittee arrived at an agreement, but that can be modified — they have been from time to time — if there's agreement around the room. I was wondering specifically what reasons you would give for not including an extra day; and second, if we were to look just at the four days, what reasons you would have for con-

tinuing to insist on North Bay as opposed to Thunder Bay, given the arguments that have been made by people with respect to what are hearings in northern Ontario.

Mr Carroll: First of all, as far as the extra day goes, I believe the time allocation motion was discussed and people different from this group decided there would be two days in Toronto, four days on the road and two days of clause-by-clause. To extend the two days in Toronto for an extra two and a half hours at night to accommodate some more people in Toronto, I thought that was a reasonable request. In the package of things we talked about, I said I was prepared to go forward on that. I believe that was a fair package of proposals. To add an extra day for Thunder Bay or anyplace else — Thunder Bay, Chatham, Welland, wherever — I don't think is in the spirit of the time allocation motion and I'm not prepared to support it.

Ms Lankin: With respect to the location of North Bay versus Thunder Bay, at this point is there not some room to understand that some valid arguments have been made about northern Ontario and what is a true northern Ontario population centre?

Mr Carroll: I understand the valid arguments and in the course of discussion I said, "Okay, let's compromise on Sault Ste Marie," and the group said, "No, we'll go up to North Bay rather than Sault Ste Marie." The subcommittee made a conscious decision to pick North Bay over Sault Ste Marie, so I think we had that discussion about the north and we settled on North Bay. I guess if we're going to open up one community, then we'll open them all and start talking about all of them.

Mr Klees: My colleague Ms Lankin reminded me of my former life, where I would call that incremental negotiations. I have to say it was really quite effective, how she led us to that very logical, illogical conclusion. I appreciate it.

Ms Lankin: Was that a compliment or an insult?

Mr Carroll: I think it's a compliment. It was a compliment, I think.

Mr Klees: I want to return, though, to the point I was trying so desperately to make and I wasn't communicating well with Mrs McLeod. What I was saying was that I think it's appropriate that we hear from people in Thunder Bay. I was going from the basis that we had before us an agreement that was being brought forward from the subcommittee and that the decision was that we're going to North Bay.

I was involved in a committee, I forget which one it was, maybe Bill 19, where we had a similar discussion. We wanted people to have an opportunity to make a presentation and we agreed, as a committee, that we would pay expenses for people to travel here.

I wasn't suggesting necessarily that they come to Toronto, because I understand Mrs Papatello's point about the shortness of time that we have there. I was suggesting that perhaps we ask these people to come to North Bay and take that full day with us there and give them a 20-minute slot.

Surely we understand that part of this was that we want to move matters forward. It surely is a lot less expensive

to have someone come from Thunder Bay to North Bay than it is to take all of us and the sundry support staff and so on into Thunder Bay. I think that's a logical way of perhaps compromising on this and saying, "Yes, we want to hear."

I go back to Mrs McLeod's point that there are five people there, and are we going to bring them all in? If we follow that logical reasoning, that means we have to do that for everyone from any other city who wants to come forward. Obviously we can't do that. I think people understand that. It's matter of saying let's have the Thunder Bay people decide who is going to make the presentation and let's keep in mind that part of this process involves written submissions as well. Some of the information I have had to consider as a committee member in the past — some of the most effective presentations have been through written documents. So again I don't think we should leave the impression with anyone that because people can't make a personal presentation, their input is not going to be considered.

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Given all of that, my opinion is that we should go with the decision that was made by the House. If there was agreement to extend the time in Toronto, I'm open to guidance on that, but I think that to reopen everything sets a dangerous precedent here. Depending on who can make the more powerful argument about which city something should be at, we're going to be in trouble on this committee and any other committee in terms of setting precedents.

My sense is that we go with the committee report, we make accommodation at the Chair's discretion in terms of picking up some costs for people who need to make some travel arrangements and get on with it.

Mrs McLeod: It's exactly the logic Mr Klees has suggested that is the reason I have raised this and am pursuing it. I think a dangerous precedent has been set. If I didn't think it had been set, I wouldn't be pursuing this in the full committee meeting as I am. I happen to believe that if a committee is going to go out and consult, it should be a genuine consultation. You go where you're going to hear from people, whether those people are going to be opposed to what you're proposing as a government or whether they're going to be sympathetic. It's supposed to be a consultation. You take what you get on the road.

The only way you can avoid making those decisions very subjectively is if you have some kind of objective criterion. I suggest to Ms Lankin that this is not a negotiation about how I get the committee to my community. If it were Sudbury or Sault Ste Marie that had the larger number of requests for presentations, I would be arguing that that's where the committee should be going. I'm trying to say that there should be something objective and not subjective, so that we don't get the feeling that communities are being boycotted.

In the absence of any reason why the communities that have the greatest number of requests for presentation have been excluded, I can only assume there are some as yet unstated reasons as to why the committee is not prepared to go to what happens to be my community. But again,

Madam Chair, I stress the fact that if it were another community in the north, just as it is Windsor in south-western Ontario, I will raise the same question: Why were the objective criteria not followed? I think not following them does set a dangerous precedent for the committee unless some discussion at the subcommittee level has given very clear reasons as to why different choices have to be made.

Mrs Papatello: Let me review the items that were under negotiation, in the end the decisions that had to be made among the subcommittee members with Ms Martel and Mr Carroll. In order to get the days of the 29th and 30th extended from 3:30 to 6 each day to 3:30 to 6 and 6:30 to 9, this is what we had to be willing to give up: We had to give up an hour of the additional five hours in order to have the minister present, which we did not want to do. We felt the minister can call a press conference at any time and as minister can bring forward all kinds of new information in any number of ways. Yet they insisted that the minister take up time from the additional five hours.

We also had to agree on the clause-by-clause confusion in terms of how it was written, which says "next recess." We had to agree we were talking about clause-by-clause happening in the same recess as opposed to the next recess. As Mr Carroll put it there, it likely would have moved the clause-by-clause into the Christmas break, which means you weren't getting it back in the House until the new year, which was not what you were looking for. So we had to give up and agree that you meant to say the same recess the clause-by-clause would be dealt with and we agreed to that because that was Mr Carroll's intent.

We also had to give up debate on this change when it goes to House leaders and House leaders agree. We agreed that when it comes to the House in the extension of that time for Toronto, we would not debate that change and that would pass unanimously.

Those were the issues that were outstanding, because in the course of the subcommittee meeting the debate on the cities absolutely ended because Mr Carroll was inflexible on Thunder Bay. Once we knew he would be completely inflexible, it was simply not proceeded with because all the other items then were in a state of flux. We would get no additional Toronto hours because everything was bound together in the same discussion. In order to get this minimal addition for Toronto, those are all the things we gave up. The cities, by the end of the tussle landing with London, Ottawa, North Bay and Niagara Falls, there was simply no further negotiation on those cities. Ms Martel on behalf of the NDP and myself identified that there were other cities that clearly would be ahead of North Bay and Niagara Falls.

If we pass this report, I'd have to say to Mr Carroll that maybe we should have included in this the extension from 6:30 to 9. I don't know why it is not in this subcommittee report. Is there some reason you didn't include that portion in this?

The Chair: Mrs Papatello, the answer to that is that the 6:30 to 9 was not in the time allocation motion and it

was not within the powers of the subcommittee to deal with it at that time.

Ms Lankin: I think it is well within the powers of the subcommittee to make a recommendation that this committee recommend to House leaders, and it could have been in the report from the subcommittee here. Having said that, we'll deal with it by amendment, but I don't think, for the sake of precedent, we should allow it to go by that it could not be included in the subcommittee report. It would have to be careful in its wording; it would have to be a recommendation, but it could have been included.

The Chair: Ms Lankin, let me clarify. It needed to be a separate request and there was no consensus on the subcommittee for it to go forward. That's why it is not part of the subcommittee report. Mr Carroll.

Mr Carroll: Now that I have the floor, I would like to move a couple of amendments.

The Chair: Mr Carroll, if I could stop you, we're dealing with an amendment that Mrs Papatello has put forward. We need to dispose of that first before we can go on to any other amendment. I have you on the list to speak, Mr Carroll, or is that what you wanted to speak to?

Mr Carroll: If we're going to speak on the amendment that's on the floor, a couple of things to correct the record just a touch: On the extra hour Mrs Papatello refers to, she and the members of her party are quite welcome to give up their 40-minute share of that extra hour. The minister is only going to take 20 minutes of it. You're quite welcome to give up your 20 minutes and Ms Lankin can give up her 20 minutes. We're only going to take 20 minutes of the hour.

Ms Lankin: You can go on again.

Mr Carroll: You made the point that you were going to give an hour to the minister, so I just want to correct the record. It's 20 minutes for the minister, 20 minutes for you and 20 minutes for the third party. You're more than welcome to give yours up if you'd like to.

As far as what we meant to say in the time allocation motion, we all know what we meant to say. There's no question about reference to "next recess." It always was a reference to the same recess. However, we did concede and I, in talking with you, got, "Yes, okay, let's brush that one over and I'll see what I can do about getting some extra time in Toronto." That was kind of a gentleman's agreement that I thought we had.

As far as the "inflexible" on the places we went to, you were pretty inflexible on St Catharines, Cornwall and Chatham and I was pretty inflexible on Thunder Bay. I think that's kind of a quid pro quo.

Mrs Papatello: They don't appear on the list at all, Jack.

The Chair: Ms Papatello, please.

I'd like to state something here. When we left the subcommittee report, there was no agreement with respect to the extension of time. There wasn't even an agreement with respect to putting the matter to the House leaders. Whatever may have happened subsequent to the subcommittee, it's not something the Chair is privy to. If there has

been an agreement, it's not an agreement that was put to me.

Mr Carroll, do you have anything else to say about this?

Mr Carroll: No.

Ms Lankin: I'm on your list, as soon as this amendment is dealt with, with some other amendments.

The Chair: Yes, you are on that list, as is Mr Klees. Any further discussion on the amendment?

Before we vote on it, Mrs Pupatello, can I ask you to read your amendment? It's been a while since it was put.

Mrs Pupatello: That a request be made to the House leaders to amend the time allocation motion to include an extra day of public hearings on the road and that that extra day be in Thunder Bay.

The Chair: Do we have a seconder for that? Okay?

Mr Kormos: A recorded vote, please.

Ayes

Kormos, Lankin, McLeod, Pupatello.

Nays

Carroll, Hudak, Klees, Leadston, Munro, Newman, Parker.

The Chair: The amendment is defeated.

Ms Lankin, I think you're next.

Ms Lankin: I would like to move an amendment to the subcommittee report:

That this committee request the House leaders to amend the time allocation motion to allow the committee to be scheduled to meet for the purposes of public hearings on September 29 and 30 from 6:30 pm to 9 pm in Toronto and, further, that the committee be scheduled to meet for four days of public hearings during the week of October 20.

1630

The Chair: Discussion? Ms Lankin, do you want to add anything to that?

Ms Lankin: No, I think it's fairly straightforward.

Mr Carroll: I defer to your experience here, Ms Lankin, but is there any need and benefit for the committee to have a technical briefing? If there is, could it come as an hour and then add a half-hour to each one of those days? Would that benefit the committee?

In other words, after the minister has had her 20 minutes and each of the opposition parties has had its 20 minutes, if we added a technical briefing in there for an hour, and then on the two evenings went to 9:30 rather than 9 o'clock, is it to the advantage of the committee to have that technical briefing, in your opinion?

Ms Lankin: It can be at times if members of the committee have not sought or had an opportunity to receive briefings. In this case, because the bill has been out for some time — I will speak for my caucus — we have, both staff and members, sought and received technical briefing on the bill, so it would not be a necessary element, I would say.

Mr Kormos: Chair, staff —

The Chair: I think Mrs McLeod was on first. Is this on the same point?

Mr Kormos: Obviously staff are going to be here in any event.

The Chair: All right. Mrs McLeod.

Mrs McLeod: On the same point, Madam Chair: If the government feels, for whatever reason, it would be helpful to members of the committee to have a technical briefing, surely that doesn't come within the mandate of the time allocation motion and could be held outside the time allocation period of time.

Mr Carroll: We would be more than happy to schedule that, say, on a Monday morning at 10 o'clock or something, for anybody who was interested.

Ms Lankin: That's a good idea.

The Chair: All in favour of Ms Lankin's amendment?

Mr Kormos: Recorded vote, please.

Mrs Pupatello: May I ask a quick question?

The Chair: Yes, I'm sorry, Mrs Pupatello.

Mrs Pupatello: Ms Lankin, you're expecting then that the recess is in that week. If the recess is the week following, would we then be forced to have it while the House is sitting? You've assumed we're off that week. We tried to get that information and we didn't have access to it last week.

Ms Lankin: At this point in time, you're right that I'm making an assumption. It's an assumption on pretty good information. It is possible that it could change, and maybe that's something we should think about. Perhaps the wording could be changed just to give a bit more flexibility.

Mr Carroll: The first full week.

Ms Lankin: It could be "the first full week." That's one good way of doing it, or it could be "the first week, save and except the week of October 13." Perhaps that gives the government more flexibility and avoids having to come back to the House again.

The Chair: Do you wish to amend your motion to that effect, Ms Lankin?

Ms Lankin: If we use the language of "first full week," does everyone understand what that means?

Mrs Pupatello: That it's not the week with Thanksgiving Day in it, if it falls at that time.

Ms Lankin: We'll go back to the other language. "The first week of the recess, with the exception of the week of October 13." That's our request. The House leaders can draft the actual language that comes into the House, but that will make it clear what we're talking about.

The Chair: All right. Are we all clear on the amendment that's being moved by Ms Lankin?

Mr Carroll: Can we have it read again? I'm sure it's fine, but I just want to —

The Chair: Ms Lankin, would you mind reading it once more.

Ms Lankin: Half of it was on the roll. I'm trying to reconstruct the words. That the subcommittee report be amended to read:

That this committee request the House leaders to amend the time allocation motion to schedule the committee to meet for the purposes of public hearings on September 29 and 30, from 6:30 pm to 9 pm in Toronto and, further, that the committee be scheduled to meet for four days the first week of the recess, with the exception of the week of October 13.

They will understand what we mean.

Mr Carroll: We can't specify the other conditions that we have agreed to attach to that. In our request to the House leaders, are we allowed to specify those?

Ms Lankin: There's no need to. What we could do is have a further amendment to this that the minister be invited—

Mr Carroll: I'm going to move that amendment, but I mean as far as the unanimous consent part of it.

Ms Lankin: No, that's up to them. I just wanted to correct what was said earlier that it was unanimous consent for it not to be debated. Actually, more than that is being asked of the opposition parties. It's unanimous consent for it to be treated as a routine motion, which means notice doesn't have to be given and it's not called as an order of the day, which is a significant unanimous consent. It's not simply that it's not debated; it means you get another full sessional day on another item and it doesn't interrupt that one.

The Chair: Any further discussion on Ms Lankin's amendment? All in favour of the amendment? I think we've had a request for a recorded vote.

Ayes

Carroll, Hudak, Klees, Kormos, Lankin, Leadston, McLeod, Munro, Newman, Parker, Papatello.

The Chair: Contrary? The amendment is passed.

Mr Carroll: Madam Chair, I have an amendment I'd like to submit.

The Chair: Mr Carroll, before you, I think Mr Klees had his hand up some time ago.

Mr Klees: I'll defer to Mr Carroll.

Mr Carroll: He told me what he wanted to say.

The Chair: Is that the case? I doubt Mr Klees would ever do that. He can speak for himself.

Mr Carroll: I move that the subcommittee report be amended by adding the following:

"That the Minister of Community and Social Services be allowed to make a 20-minute opening remark and that the opposition parties each get 20 minutes to respond."

I don't need to clarify that that is on the first day of hearings in Toronto.

Mr Klees: In light of the fact that Ms Papatello indicated that there really isn't a need for the minister to do that, I wonder if we shouldn't take advantage of that and open up another couple of spots for presenters. That would give us the opportunity of having the minister make her statement, but also have two more presentations from the public on that.

Mrs Papatello: You just don't get it, do you?

Ms Lankin: I would never want to rise to the bait. I'll just say I think that is real silliness. We probably will accomplish more if we have a bit more respect for each other around the table and not play those kinds of games here.

Mr Klees: I'm assuming then that the opposition parties are not prepared to do that.

The Chair: I'm not quite clear what you were trying to accomplish, Mr Klees. Was yours an amendment to the amendment?

Mr Klees: That's what I was proposing.

The Chair: All right, it wasn't clear to me. I apologize. You'll have to move it as an amendment to the amendment. We will then have to—

Mr Klees: I think I have some sense that probably that wouldn't be supported.

Ms Lankin: Go ahead and move it.

Mr Klees: No, I wasn't looking, as the member for Beaches-Woodbine indicated, to play games on that side. I really thought that when Ms Papatello indicated that that wasn't necessary, she meant that. If we are looking to create some more space for people to come forward, then that's a logical place to do it.

Mrs Papatello: And the minister should lead by example.

The Chair: Ms Papatello, you're on the list.

Are you moving it as an amendment to the amendment, Mr Klees?

Mr Klees: I won't. I would have, because I really did think it was a good idea. I want to assure the members of this committee that it wasn't with the intention of playing any games. I'll drop the matter.

Ms Lankin: I would just say that what I heard Ms Papatello suggest was that the entire hour wasn't necessary for the minister or the response of the opposition parties. If Mr Klees wants to put forward his amendment, he can be assured that if he supports my amendment to his amendment, which is to drop the minister as well, then I'll vote in favour of it.

You are playing games. Either the minister doesn't come and we don't have the responses, which would be fine by us and that would open up three more spots, or we have to take an hour. Fortunately, at least it's an hour of additional time that's being added. But it is an unnecessary step, given the press conferences and other things that have been held, when we have such limited time. But if you are insisting on having the minister present, then I think we will insist on our right to respond to the minister.

Mrs McLeod: I don't believe that we need Mr Klees's amendment to the amendment, nor Ms Lankin's amendment to the second amendment to the amendment.

The Chair: We don't have Mr Klees's amendment to the amendment.

Mrs McLeod: My point is we have a resolution before us. Ms Papatello was serious in saying that she would prefer to see the spots open for presenters. We'll be voting against the amendment proposed by Mr Carroll for that reason, which would then free all three spots for presenters. I trust, given Mr Klees's statement that he wasn't just

playing games, that he will also be voting against Mr Carroll's amendment.

1640

The Chair: Mrs Papatello?

Mrs Papatello: I'll pass.

Mr Klees: I think I have to respond to that. I will be voting in favour of Mr Carroll's amendment. The reason for that is that I believe it's important that the minister, on a very important bill such as this, have an opportunity to make her statement. Surely there is a difference between the minister coming forward to a committee and making her statement here and simply calling a press conference. This is the one opportunity the minister has. We all have had press conferences, we've all made statements to the press. What gets reported and what doesn't is a matter of choice of the individual doing the reporting. Hansard is one opportunity we have in this place of ensuring that every word we say gets reported.

Ms Lankin: Therefore, you should want to hear the opposition responses as well.

Mr Klees: And I'm prepared to, happy to. But I was responding to Ms Papatello's suggestion that it would be a waste of time to have that happen. I thought in that light perhaps she would be willing to give up her 20 minutes to someone from the outside who wants to make a presentation.

Mrs McLeod: We are. What about the others?

The Chair: Any further discussion on Mr Carroll's amendment? All in favour of the amendment? Contrary? The amendment passes.

Any further discussion?

Mrs McLeod: I have a further amendment, Madam Chair.

I move that, consistent with the criterion that in making the choices of a limited number of communities to be visited by the committee the choices be according to the number of requests to make presentations, the communities of Thunder Bay and Windsor be substituted for North Bay and Niagara Falls.

The Chair: Any discussion on the amendment?

Mr Klees: I want a recorded vote on this.

Ms Lankin: Why don't we move to divide on this?

The Chair: It might be easier to ask the person making the amendment to make two amendments.

Mrs McLeod: Madam Chair, it was put together because I really was preparing to come back to the criterion. My understanding of the numbers given to us today was that those two cities would meet, along with London and Ottawa, if I understand it correctly, the numbers of requests for presentations.

The Chair: Any further discussion on this? Ms Papatello, do you have something to add?

Mrs Papatello: We also did try to go to Welland just for Mr Kormos's sake, but that was denied us.

Mr Kormos: Niagara Falls was on the list. Folks in Welland know that this bill's a crock —

Interjection.

Mr Kormos: Well, they do, and that the Tories are going to ram it through notwithstanding. They haven't

bought into any of the spin and the propaganda. We're in this unfortunate and difficult position of having to trade off cities, one city for the other. Quite frankly, one is as important as the other. We recognize that, although, at the same time, I understand the significance of submitting an identifiably northern community, not just because it's accessible to northerners but because it's very much different as a community and a place to live and a place to be poor in and a place to have to have workfare imposed on you etc.

Yes, I have no hesitation in saying I'll support that amendment, although I wish Ms McLeod had stuck to the northern communities — no hesitation whatsoever, because I think the issue of including a northern community outweighs — again, folks in Welland, when I spoke on Bill 142, those are the sorts of things they had been saying about it, and I'll be saying that to the committee in any event.

Mrs McLeod: I have no hesitation at all in going to Niagara Falls, nor would I have hesitated in going to Welland. I'd love to see them all added. The reason I placed the amendment as I have is simply to try to give some objectivity to this. I'm not advocating that this come to my home community; I am advocating that we look at the number of people who have asked to make presentations and use that as a method of bringing some objectivity to the decision.

The Chair: I'm grateful for the objectivity. Any further comments?

Laughter.

The Chair: That wasn't intended to be humorous, Mr Klees.

Mr Klees: No, but it sounded good.

The Chair: All in favour of the amendment?

Ms Lankin: A recorded vote, Madam Chair.

Ayes

Kormos, Lankin, McLeod, Papatello.

Nays

Hudak, Klees, Leadston, Munro, Newman, Parker, Carroll.

The Chair: Any further items?

Mr Carroll: The only thing I'd like to mention is that I will commit to a technical briefing on behalf of the ministry, probably on the Monday morning, but I'll advise the committee members as to when it will be.

The Chair: All right. That doesn't require an amendment to the subcommittee report. May I have a vote on the adoption of the subcommittee report as amended?

Mr Kormos: May I speak to that, because I'm opposed to the subcommittee's report. This is an entirely inappropriate time frame in which to discuss what is important and, quite frankly, dangerous legislation, one that does nothing about the issue of growing poverty in the province, one that doesn't even attempt to begin to address it.

I think the debate around 142, and that includes committee hearings, could and should be a discussion of growing levels of poverty in this province. It won't be, and I think that's very much what the government has in mind with their time allocation motion and the highly restrictive — literally a handful of hours and a handful of submissions, and already before publicizing the hearings a huge number of illegitimate — take a look at the groups and the types of groups and the broad interests they represent and the diverse constituencies they represent in the list of requests to appear that the clerk has received already. As I say, this is but the tip of the iceberg. I appreciate that the subcommittee reached their so-called consensus but they did it in the context of that time allocation motion. That's why I want to indicate I'm voting against the subcommittee report as amended.

Ms Lankin: I have one further question. I'm sorry I'm bringing this up at a late date, but I'm just looking at the lists of requests to appear. Was any consideration given to attempting to ensure that there is representation on both parts of the bill? I've made the point a number of times in the Legislature that this is actually two new bills that are created and they're very different bills: one dealing with social assistance and welfare recipients and the other dealing with an income program for members of the disabled community.

They're very different plans, and I am just looking in terms of those who want to come forward. The majority of them of course will be speaking to the social assistance Ontario Works bill. I think it's unfortunate, and I worry that these two bills are not going to get the appropriate separate attention they deserve and that the committee will not actually be able to have enough time to hear appropriate representation on both bills. I don't know whether the subcommittee dealt with this issue or this concern or if the committee has any thoughts about how we will accomplish this major feat that has been laid out before us.

The Chair: Ms Lankin, the subcommittee did consider that very issue and talked about whether the committee should split into two and hear the two parts separately or whether accommodation ought to be made in alternating some of the presenters so we get a full picture. There was no consensus that emerged in fact; other issues overtook it. If there has been —

Mrs Papatello: It was two to one, Chair.

The Chair: I'm not sure what transpires beyond the subcommittee, whether there has been agreement reached. I guess I would ask the members of the subcommittee whether the status has changed with respect to the subcommittee meeting.

Ms Papatello, I think you had your hand up.

Mrs Papatello: We did propose to the government member that we split so, for example, in Toronto we were in two separate hearings at the same time, even if the committee had to split, so that we could put one group that would attend that act regarding issues for the disabled and the other group that would deal with the social reform. That again was denied, although if we had to vote it would have won two to one. Naturally it didn't go anywhere, but

we did try to do that, for exactly the reason you mentioned.

1650

Mr Carroll: The only comment I'd make on that: We would be quite prepared to look at a system where every second presenter had to address a different part of the bill. But I think that's unfair, because some will come forward and want to address both sides of the bill. I think it would be fair to restrict them in that. We talked about the fact that we would advise all of the constituent groups that the Ministry of Community and Social Services works with as far as disability supports of the dates of the hearings so they know about them, but —

Mrs Papatello: It wasn't restricted just to those groups, Jack. It was all the groups that this —

Mr Carroll: Sandra, can I finish, please? You can correct me after if you choose to. We said we would advise them of the fact the hearings were going on and when they were and give them an opportunity to make submissions or to appear. But we would be prepared, if you think it would be a good idea, to say every second slot — because basically the slots are going to be controlled by the three caucuses. If every second slot was organized for somebody for one of the different acts, we would be prepared to do that.

Ms Lankin: A further question, Mr Carroll. I think notification — and as the names come in we'll have to respond to the groups that have applied. Is there no room to give consideration to the idea of having the committee split in two so that we could — in the same time frame, which doesn't affect the bottom line of the government in terms of the time frame — actually address significantly better both bills? Actually, it would double the amount of hearing time for groups presenting as well.

Mr Carroll: That was another issue that came up and we did talk about that. We believe that the bills are connected, the acts are connected. There are some common features to both parts, and the committee members are going to have to discuss clause by clause together as a group. We thought it best they hear from the presenters as a group. So the idea of splitting the bill was not one that we were prepared to consider.

Ms Lankin: Just further on that point, it's not like we haven't done it before. If you remember Bill 26 — I know you remember Bill 26 — we split into two committees and we did come back together to do clause-by-clause. As many times as I hear members of the government say, "Those who can't present to us can send it in writing," and I read every one of those presentations, I can assure you that if I'm sitting on the disability bill side of the committee I will read all of the presentations that have been made to the other, and I will be prepared when we come to clause-by-clause to deal with both bills together.

All I'm suggesting is that it would allow for that kind of concentration. Mr Kormos and I will both be members of this committee. His critic area will deal primarily with the social assistance reform bill. My critic area deals primarily with the disability income program bill. There's a natural split, and I think other parties could find the

same way of splitting their membership. It would accomplish having double the number of people be able to present in all of the centres, whether it be Toronto or wherever we go. It just means setting up two committee rooms. It doesn't mean increasing the number of committee members who travel, and we would still accomplish it in the same time line that the government has put forward as being necessary to accomplish their legislative agenda.

The Chair: Ms Lankin, are you proposing an amendment to the subcommittee agreement?

Ms Lankin: Yes, that's a useful suggestion for a procedure. Thank you.

The Chair: That would be a better way to do it, so would you give us some wording.

Ms Lankin: I move an amendment to the subcommittee report that for the purpose of public hearings the committee split itself into two to hold simultaneous hearings in separate rooms in each of the hearing locations for the purposes of dealing with the social assistance reform bill in one group and the disability income program bill in another group.

The Chair: All right, we are now speaking to the amendment to split the committee to consider the bill in two parts. Any comments?

Mr Kormos: This obviously isn't the perfect solution, but it's the only response that you can have to a bill that addresses two very distinctive issues in the same bill. It's an imperfect solution because it's a very imperfect bill in that regard, but I think that's exactly the reason why it should be supported by the committee. As I say, that's not the best approach, of course, but in view of the government's refusal to sever this bill into its appropriate two pieces, I think it's a responsible solution.

Mr Klees: Most of us don't have the kind of experience Mr Kormos does at splitting himself into two, so I couldn't support that amendment.

Ms Lankin: I just want to ask a question. Surely you would agree that you read all of the written submissions that are presented; I hear your members say that all the time. You would be able to read the presentations that had been made or sent in to the half of the committee that you were not a part of, so it wouldn't really be a question of splitting yourself in two, Mr Klees. It would be a question of doing a little bit of extra reading and being prepared for the clause-by-clause, and I have every confidence that you could do that.

Mr Klees: Thank you very much for the compliment.

The Chair: Any further comments? Very well then, all in favour of Ms Lankin's amendment?

Ms Lankin: Recorded vote.

Ayes

Kormos, Lankin, McLeod, Papatello.

Nays

Carroll, Hudak, Klees, Leadston, Munro, Newman, Parker.

The Chair: We come back then to the adoption of the subcommittee report. We have two amendments, so it's as amended. Any further comment?

Mr Kormos: Recorded vote.

Ayes

Carroll, Hudak, Klees, Leadston, Munro, Newman, Parker.

Nays

Kormos, Lankin, McLeod, Papatello.

The Chair: The report of the subcommittee, as amended, is adopted.

There are two issues I want to raise. One is what instructions we have for the researcher. We have a very able researcher with us. Is there any background information that you need? What kind of instructions do you have for him? Ms Lankin?

Mrs Papatello: Maybe it would be easier for us and the researcher if you'd give us maybe a week. We can make submissions to the researcher. With a little bit of time we can do it with some thinking.

The Chair: We could certainly do that.

Ms Lankin: It would be helpful to get some breakdown of statistics on the pilot projects of Ontario Works — the municipalities participating, the number of people who have participated, the types of jobs — depending on what's available. I understand there are a few restrictions on that, but some of that background information might be useful.

Mr Klees: As written submissions come in — in the past we've simply been getting copies of those — I think it would be good to keep an index that would also be updated on a regular basis to show what the subject matter is that —

Mr Ted Glenn: It's included in the summary that we provide for the committee.

Mr Klees: It is? Okay, I've seen some where I don't have that information.

Mr Glenn: In the final edition they are included.

Mr Klees: I know I get it in the final edition. I'm talking about as we're going through. But mind you, we're only doing four days.

Mrs Papatello: Exactly.

Mr Klees: No, here's the point: Written submissions will come in over an extended period of time. From the time that the announcement goes out people will start sending those in, and rather than getting a package at the end of the day, if we have those on an ongoing basis, and if the index could be updated, I just think it would be helpful. It helps me to organize myself.

Mr Glenn: We'll get it.

Mr Klees: Thanks.

Mrs Papatello: I wanted to check with the government member on the subcommittee if there's been any reconsideration of the advertising for these public hearings. The last comment was that there would be none and the com-

ments today indicate that you may only be advising through the minister's office the disabled groups that may or may not be affected by the act. We understood in our discussion that the minimum was going to be that the minister would inform all groups affiliated with the Comsoc ministry of the hearings because you had insisted that there wasn't going to be any expense for advertising. Have you reconsidered any of that?

1700

Mr Carroll: First of all, we have passed the subcommittee report that dealt with that issue. I don't really want to bring it up again. We will do what we committed to do.

Mrs Pupatello: But at that point the commitment was not just the disabled groups, but that's what you said today. Our understanding was all the groups.

Mr Carroll: It was the constituent groups who are affected by the act. You were concerned primarily at the subcommittee with the disability groups, with those —

Mrs Pupatello: No, we never specified which of the two. We knew there were groups affected by the social welfare reform and groups affected by the changes to the disability act. We knew that you were going to, at minimum, fax through the minister's office to all of those groups — both. Are you still committed to that?

Mr Carroll: We will fax to whatever the minister's list is of advocate groups that they deal with.

Mrs Pupatello: Including senior groups?

Mr Carroll: Whatever the minister's group of advocates is that they deal with. We can fax it to anybody you want.

Mrs McLeod: May we then, for the information of the committee, know which groups have been advised of the hearing so that we may know who may have been missed?

Mrs Pupatello: Yes, because we don't know who you'll fax to or who you won't fax to.

The Chair: Mr Carroll, could we have a list at the committee of individuals and organizations —

Interjections.

The Chair: With respect, one at a time, please. Could we have such a list?

Mr Klees: Put your name on it, Sandra.

The Chair: Mr Klees, Mr Carroll has the floor.

Mr Carroll: We will provide a list, if that is what you want, of the groups we're going to send the fax to. Understand that you can send a fax to any groups you want to send it to too. It's quite within your right to do that. This was not an issue at the subcommittee. I'm not sure why it's become an issue today.

Mrs Pupatello: If I may respond to that, the reason it's an issue today is that the way we left it, we thought it was unprecedented that the government would not take any measure to advise Ontario that we're having public hearings, but you chose to do that. Fine, we have to accept that the government does not want to advise the public as to the public hearings. They don't want to advertise or put it in publication. That's on record already and we have to accept it.

But what I'm suggesting is that in discussions on releases going out from the minister's office, we thought it

was going to be to all of the groups. Today in discussion you mentioned just the disabled groups. I just wanted to clarify that it would be all the groups, including the seniors and those affected by the other half of the bill. Now that it's clarified, that's fine, but for our sake, having the list of that I don't think is harmful and for Mr Klees to suggest that we would actually repeat that is really needless and inefficient. Jack, I'd appreciate you just letting us know that. We certainly accept that, so I'd appreciate that.

The Chair: Mrs Pupatello, if you look at item number 2 of the subcommittee report, the press release in fact does not go out from the minister's office. That may be in addition to what the Chair might do, but it's the Chair of this committee who would send out the press releases. I believe what we had was in Toronto only. The others were to be discussed by the subcommittee at a later date, but for Toronto the idea was that the three caucuses would send their list to the clerk, who would then send out the press releases.

Mrs Pupatello: To whom? Someone is going to direct as to where you send it?

The Chair: It'll go to whatever the three caucuses send to us to send out. We could certainly provide you with that list. If the minister is sending an additional press release, then of course Mr Carroll has said that he will provide us with that list. But the decision has not been made with respect to outside of Toronto. We still require another subcommittee meeting with respect to that. Does that address your concerns?

Mrs Pupatello: At least it's on record that it is fairly unprecedented in a market like Toronto to not have engaged in any sort of advertising.

The Chair: Noted for the record.

Mrs McLeod: Is it premature then to ask what procedure will be followed for the advertising of the committee hearings outside of Toronto? Because quite clearly we're talking about the entire rest of the province. I'm not sure that it's reasonable to think that we can provide a list of groups in every community and yet I think clearly people in communities that are not going to be visited by the committee should know that the committee is holding hearings.

The Chair: Given the way that discussions have gone in the subcommittee, the Chair for one would welcome input from the committee at large before we meet as a subcommittee to make those decisions. If you have anything to contribute, we'd be delighted.

Mrs McLeod: I'm not sure exactly why the decision was made not to have a public advertisement, but I think we should be following the process for public advertisement, including in communities that are not being visited by the committee, so that people can be aware and request to make representation. I don't know any other effective way of being able to make the public aware that the committee is going out.

Ms Lankin: Just as helpful input, I would agree that there will have to be some publication of the hearings outside of Toronto so that Mr Klees' suggestion that people in Thunder Bay who are interested can contact people

in North Bay so that they can make the presentations on their behalf and make sure their points are included — if we don't publicize this and advertise this, then people in Thunder Bay will never know to contact the people in North Bay. I'm quite sure that when it comes to the subcommittee Mr Klees will have convinced Mr Carroll to support that position.

Mr Klees: I think a very effective way of ensuring that the people in Thunder Bay will know about the meeting in North Bay is if Mrs McLeod puts out one of her newsletters as a responsible member for Thunder Bay. Then all of her constituents will know about it.

Mrs McLeod: Believe me, Mr Klees, I'm looking forward to a press release talking about the boycotting of my community by this committee. However, I am actually interested in knowing how people in every community are going to be aware that this committee is holding hearings and that they can either ask to make representation in whichever community is closest to them or can make written presentations. I don't know of any effective way for us to make that known other than by the public kind of advertising that the committee has traditionally done in the past and I would ask that it be done.

I have a further question about procedure, but I can hold it until this discussion's complete.

The Chair: We'll certainly take that back to the subcommittee. Your other question?

Mrs McLeod: My other question is in terms of people who have already asked to make representation. I believe it has been past practice for the clerk to contact people who are from communities that are not being visited to determine whether the individuals who have asked to make presentations would be available and prepared to come to another community. Recognizing that the subcommittee still has to draft the lists and the Chair still has discretion about expenses, will there be some effort made to determine who can access the committee in these —

The Chair: That is past practice. It will depend on the lists that you give us. I'm certainly prepared to exercise my discretion.

Mrs McLeod: Does that mean that we need to know in advance whether — obviously we're limited in the numbers of names. There's a procedure by which we'll have to submit names.

The Chair: That's right.

Mrs McLeod: If we submit names that, in your discretion, can't be funded to attend the committee, will we then be able to submit alternate names of people who could attend?

The Chair: Quite frankly, we've not thought that far ahead, but I assume what discretion means is that it's discretionary. I'll certainly look at the request that you make, and if it can't be done, then we'll talk about it.

Mr Klees: Just by way of a suggestion, once you have the press release drafted for announcing these hearings, it might be appropriate for you to arrange to distribute that generic draft to all of the members of the House with the suggestion that they release it to their local press. I've certainly found that when I do that in my constituency, it gets picked up. It may again be a way that Mrs McLeod may want to consider further informing her community, but —

Mrs McLeod: This isn't about my community, Mr Klees.

The Chair: Mr Klees, once the press release is drafted and ready to go, I certainly will distribute it to all members of the House.

Mr Klees: That way it gets distributed to 130 communities. I think that's a great solution.

The Chair: Are there any other issues with respect to that? I have one other item which I announced. This will be very short, Mr Kormos, and it's simply this: The subcommittee was certainly a very contentious and interesting place to be —

Mr Klees: I can't believe that now.

The Chair: — and I understand that members of the subcommittee might want to continue the discussion afterwards. I would ask one thing of you, and that is that when there is agreement on issues which were not discussed at the subcommittee, I would appreciate as Chair being informed of those decisions. It does not have to come to me on a rolling basis as you make these, but I would suggest that at least prior to the meeting of the full committee I be advised on issues that have taken place. It would help me do my job and it would shorten the process here.

Thank you very much. With that, we're adjourned.

The committee adjourned at 1710.

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Monday 29 September 1997

Lundi 29 septembre 1997

*The committee met at 1531 in room 151.*SOCIAL ASSISTANCE
REFORM ACT, 1997LOI DE 1997 SUR LA RÉFORME
DE L'AIDE SOCIALE

Consideration of Bill 142, An Act to revise the law related to Social Assistance by enacting the Ontario Works Act and the Ontario Disability Support Program Act, by repealing the Family Benefits Act, the Vocational Rehabilitation Services Act and the General Welfare Assistance Act and by amending several other Statutes / Projet de loi 142, Loi révisant la loi relative à l'aide sociale en édictant la Loi sur le programme Ontario au travail et la Loi sur le Programme ontarien de soutien aux personnes handicapées, en abrogeant la Loi sur les prestations familiales, la Loi sur les services de réadaptation professionnelle et la Loi sur l'aide sociale générale et en modifiant plusieurs autres lois.

MINISTRY BRIEFING

The Chair (Ms Annamarie Castrilli): Ladies and gentlemen, welcome to the social development committee. We are today dealing with Bill 142 and we'll start promptly with the minister. You have 20 minutes.

Hon Janet Ecker (Minister of Community and Social Services): I am very pleased to be here today as the committee begins consideration of Bill 142, the Social Assistance Reform Act. I would like to make some brief remarks, and hopefully be very happy to respond to any questions we may have at the end of it.

Recognition of the need to change the welfare system existed long before the last election. Consequently, the Common Sense Revolution included an unequivocal commitment to take the steps necessary to make that change happen. We promised major reform to the welfare system to get people back to work and to fight fraud. We promised to create a new and separate program for people with disabilities to provide them with better income support and improved supports to employment. Bill 142 keeps both of these commitments. We have based it on three principles.

The first is fairness. The welfare system must be fair to those who receive its benefits, and it must be fair to those

who provide the benefits — the taxpayers of Ontario. People with disabilities need a fairer system that recognizes that for many of them, they may need income support for a lifetime.

The second principle is accountability. There must be mutual and reciprocal responsibilities between the beneficiaries of social assistance and the government, between people with disabilities and the social programs that serve them.

The third principle is effectiveness. This legislation will ensure that the recipients of these programs get what they need and need what they get. We must ensure that the administrative systems are clear and that they are effective. We must ensure that the rights and interests of recipients and taxpayers alike are respected. To put it another way, social programs have to work and they have to be seen to work. They have to have the right goals, and they have to be seen to be accomplishing those goals.

In developing this legislation, we consulted widely with both the people of Ontario and the affected groups, and we will continue to do so. This bill, and the subsequent regulations which flow from it, will be the basis for dramatically reformed programs in two key areas.

The first area is the Ontario Disability Support Act. It creates a new program which will significantly improve income and employment supports for people with disabilities. This program is separate from the welfare system and the Ontario Works Act. Its approach is focused on people's abilities, not their disabilities. It aims to support independence by creating a comprehensive and responsive program based on personal control, choice, flexibility, effectiveness and consistency.

Second is our work-for-welfare program, Ontario Works. Through our current Ontario Works program and the Ontario Works Act, we are keeping our commitment to the voters to make self-sufficiency and responsibility the hallmarks of the welfare system. An effective welfare system has to be a transitional program of last resort, designed to get people back into the workforce. The key is a requirement for mandatory participation by welfare recipients. In addition, the bill provides for one welfare system, delivered by one level of government, to streamline administration and reduce the duplication and waste. It will also give us the tools we need to fight misuse and abuse of the system.

A letter to the editor published two weeks ago in the Brantford Expositor provided support for Ontario Works

from one 21-year-old participant. A victim of the vicious cycle of no experience, no job/no job, no experience, she rejected much of the criticism and praised Ontario Works as a serious attempt to move people into jobs. She concluded by saying that the program recognizes that "nothing worth having comes without hard work, sacrifice and determination." No one could fail to wish that young woman well. Her attitude is widely representative of the participants in Ontario Works whom I have met as I have travelled across the province.

As you review this bill, I want to restate my interest in constructive suggestions to improve the legislation consistent with its principles. I look forward to hearing suggestions from members of the public and others who have a specific interest in the legislation. Practical ideas and proposals will also be of assistance as the regulations are being developed.

The issues this legislation addresses are neither neat nor simple, and neither are the solutions. Even with the right legislative structure, it is going to take time for effective implementation of these important reforms. We are committed to introducing change, not disruption. The transition to the new programs is scheduled to begin January 1998. Switching from the current systems to the new must be a careful, planned process that will happen over time.

As I have said before, we are taking the time to get it right, because these programs impact on the day-to-day lives of the many Ontarians who depend on them, for support, for services, for employment. If we have to run parallel systems until everything is working as it should, we will do so. If improvements can be made throughout the transition process, they will be.

That being said, there should be no misapprehension about our commitment to these reforms. They have been overdue for many years. We don't need more studies. We believe it's time to act.

There were several issues raised by members during second reading debate to which I would like to briefly respond now. In doing so, let me express the hope that those wishing to contribute to this process will read the proposed legislation and our stated policy objectives, because I have been concerned that some of the criticisms do not reflect what is actually in the legislation, and those criticisms have spread misinformation and caused needless fear to clients and beneficiaries.

The new eligibility criteria for the Ontario disability support plan are one example of this. The purpose of the criteria is to create a more inclusive and sensitive recognition of the different dimensions of disability. Concerns have been raised that the new criteria might require proof, for example, that there is substantial restriction not only of the ability to attend to personal care, but also of the ability to function in the community and in the workplace.

The government's policy intention is very clear: Substantial restriction in any one of these three areas — daily living, community or workplace — will be sufficient to qualify. I have also been clear that the new criteria will

be flexible enough to respond to the cyclical nature of some conditions and diseases, for example, mental illness or HIV/AIDS, and also to the fluctuations in health status that are often both inevitable and unique to the individual. This is what people with disabilities told us they expected from this reform, and that's what the new criteria are seeking to achieve. If changes are required in the legislative language to provide that outcome, we are prepared to make them.

1540

The right of appeal is another example that has been raised. Of course, it will continue for both those on the Ontario disability support program and for Ontario Works recipients. But changes have clearly been needed to fix the problems in the system. For example, members may not be aware that the average appeal currently can take almost seven months; 22% of those who are appealing don't even show up for their hearings; 12% of appeals are disposed of because of things such as the matter was already resolved or for some other unknown reason; and 31% are denied on the merits of the appeals.

To streamline the process we are adding a new first step: an internal review to provide recipients with a faster decision. These proposals will be less onerous for the recipient, while protecting their rights of appeal.

There is also the issue of liens. If someone has been on welfare for a long period of time, this legislation provides authority to place a lien on his or her residence. This allows taxpayers to recover a portion of their investment only upon the eventual sale of the home. No one will be forced to sell their home to satisfy a lien. I would also like to stress that under the Ontario disability support plan, people with disabilities will not have liens placed on their principal residence.

Finally, the issue of direct payment of rent or utilities in cases where recipients are not capable of handling their own affairs has also been raised. The authority to do this already exists for municipalities under the current general welfare assistance program. All this legislation does is create a similar authority for all recipients, where necessary.

These are all concrete examples of the kind of complexities that must be addressed and resolved in reforming these programs. It's our job as legislators and it's our job as government. But anyone who has talked to both beneficiaries and taxpayers knows they are united in wanting all of the mechanisms involved to be fair, to be accountable and to be effective.

As we now move to address the specifics of implementing them, of translating those principles into action, to mounting and delivering new and improved social support programs, we continue to need, and are interested in, advice and assistance. It will come from the members of this committee, it will come from those who appear before you and from those who submit their views to you in writing. I wish the committee well in their deliberations.

In closing, I can only repeat my commitment to carefully consider any and all practical suggestions for improving and refining both the Ontario Works program

and the Ontario disability support program legislation contained in Bill 142. Thank you very much for your attention, and I look forward to your questions.

The Chair: Before we move on, I'd like to inform people that there is an overflow area in committee room 2. You can follow the proceedings there by television. We now move to the official opposition critic.

Mrs Sandra Pupatello (Windsor-Sandwich): Does she have question time left, Chair?

The Chair: She does, but it is normally handled through your period.

Mrs Pupatello: Are you looking for questions and/or my 20 minutes?

The Chair: It's your 20 minutes. The minister can use her 20 minutes in any way she wishes.

Mrs Pupatello: You did offer time for questions and answers?

Hon Mrs Ecker: Yes.

The Chair: You did offer time for questions?

Hon Mrs Ecker: Yes. If there's time left, I don't mind doing questions.

The Chair: Then we have approximately nine minutes left for questions, three minutes each.

Mrs Pupatello: Thanks, Chair. So question and answer then.

Minister, while you are here — and we are pleased to have an opportunity to ask a question — after the passage of this bill, will there be more or fewer people on disability in Ontario?

Hon Mrs Ecker: There will be more people on the disability support program. One of the challenges is that we know there will be more people needing disability support in the province, and we want to make sure that the program is not only meeting their needs in a better way but also is able to meet the needs of more people.

Mrs Pupatello: When you say there will be more people, are you including those who are now caught in another form of support, who should be in disability but are currently not because your administration is trying to move them into the disabled section and they are striving to do that, but they frankly at this point are misplaced? When you say there are more, are you counting the numbers who should rightly be in, or is it a function because you are expanding the definition of "disabled"?

Hon Mrs Ecker: I think it remains to be seen exactly why or how. We know that the number of people with disabilities has been growing, and one of the reasons and one of the messages we've heard loudly and clearly is that the current program, having to rely on welfare, has not been meeting their needs very well. So we want to make sure that there is no cap on this program and that it can continue to grow as the number of people with disabilities grows.

As you probably know, and I'll mention it, those individuals who are eligible for FBA and on FBA are going to be grandparented into the new program when it comes into existence. So there won't be any sort of new process, assessment or whatever for them. They will be grandparented into the new program.

Mrs Pupatello: Would you say, then, that given the way you are defining or will be defining in regulation, which we haven't seen yet, those who are considered disabled today, either by being grandfathered into the program or by whatever your definition will be, in the future people with a similar disability may not reach over the bar that you are setting in regulation for what would be considered disabled?

Hon Mrs Ecker: First of all, we have tried to be very clear in the legislation what the definition should be, and we have taken a fair bit of time to do that. For example, we had consulted on this, we had gone out with a draft of eligibility criteria or the wording in the legislation. It was not supported, so we went back and redid it. For example, instead of talking about the restriction expected to last two years, we said one year, and other changes. That is in the legislation, because we want to make sure that the legislative framework and the policy intent are very clear for what we're trying to do, and we want to make sure that those criteria meet the cyclical nature.

Some people in some circumstances can be fine, and in other circumstances — for example, mental illness — they may well need support. We want to make sure the program does that. For those individuals who can and do want to go back to work, we want to make sure that if because of their difficulties they are not able to work again, they can come right back on to the program. So there is no disincentive for them if they can and do wish to do this. We want to remove the label "permanently unemployable." These are all issues that have been raised with us as issues that needed to be addressed and needed to be reformed, and we are trying to reflect that in the wording.

As I mentioned in my statement, one of the things that had caused some concern was that because we were trying to talk about daily living, personal care and the workplace, there was a sense that somehow or other you had to meet a test in all three, and that's not the intent. If you have a disability in being able to meet your personal care needs, being able to function in the workplace or whatever, it's not an addition. Any one of those three categories would certainly be sufficient.

Ms Frances Lankin (Beaches-Woodbine): Let me begin by just expressing my complete dissatisfaction with a process that puts two very different bills together and asks the committee to deal with what are very complex issues, as you said in your own words, Minister, over the course of two sets of hearings in Toronto and four days on the road. This is ludicrous.

As I have said to you on a number of occasions, I find myself largely in support of the aims and the purposes of the disability income support plan that is here, although I have specific concerns and I think amendments are required. I am absolutely opposed to the other half of this legislation and will not be able to vote in accordance with my belief on these two very different bills.

1550

Time for a couple of quick questions now, and I am going to concentrate on the disability income support plan.

My colleague will have some opportunity later on to address the other half of the bill.

I wanted to ask you if you could explain why you are taking what I think is an extraordinary step to completely dismantle the vocational rehab services. I think all could agree that there are certain persons with disabilities who, with the appropriate employment supports, can enter competitive employment situations, and we would want that kind of service to be there for them. But we also know there are persons in the disability community who will never be able to operate within competitive employment and who gained such incredible support from the coordinated approach of not just employment supports, but counselling and career planning and a whole range of things that are now centralized in one-stop shopping at DRS which will now be fragmented between long-term care and home and vehicle supports and the service coordinators in the community doing the employment supports. It seems that for the hard-to-serve, as a group of persons within the disability community, they will not be better off after this legislation. I was wondering if you could address that.

Hon Mrs Ecker: First of all, I appreciate your concern about two pieces of legislation. One of the challenges, of course, is that because people who need welfare assistance and individuals who need welfare because of disability are both on the same system, we are having one piece of legislation to disengage the two of them. It's one of the reasons why we took as much time as we did in terms of consulting and listening before bringing it forward — we introduced it in June and here we are at the end of September — so that there would be time for people to assess it, to weigh it, to take a look at it. It's one of the reasons why I have met, and will continue to meet, with groups to answer questions or to get further input or whatever as we go through this process.

On the issue of vocational rehabilitation, there are certainly many people who are doing very wonderful things in supporting people with disabilities. There are many people with disabilities who have received very good support. One area we looked at was how much of the money was being wrapped up in administration as opposed to services, and we think with some of the changes, we can in effect double the amount of money that will be going for direct services, to front-line services, for individuals, from about \$18 million to \$35 million.

Second, many of the community agencies that are out there providing services for people with disabilities, we want to be using them more, to continue to provide employment supports, to continue to provide the other supports that may well be needed by someone with a disability as they seek employment, if they feel they can and are able to and wish to do it. What we want to do is to have those services provided by community-based agencies in an integrated fashion. As you know, many services with community and social services are provided like that now. It's a system that seems to work extremely well and provides a great deal of flexibility for individuals

and communities, and I think will respond even better to the needs of people with disabilities.

The Chair: Thank you, Minister. I understand from the parliamentary assistant that the government caucus is waiving their three minutes, so we'll move to the opposition critic. Mrs Pupatello, you have 20 minutes. You can use your 20 minutes any way you want.

Mrs Pupatello: I would like to make some opening remarks regarding Bill 142 which, in the minister's own words, will be a significant change to these acts, the likes of which we haven't seen for decades. That alone speaks to the process we've been under.

The fact of the matter is that the detail will be in regulation, to see how all of this will play out in our future. Unfortunately, we haven't seen that. We don't know how that will change. It's very difficult frankly to believe a minister of this government, because unfortunately we've had a number of examples where they've just been plain wrong.

Continuously over the last several months we have brought examples into the House here at Queen's Park where people really are hurting and it's because of policies set out by this government. For us to simply hear a minister repeat the same phrase doesn't make it true. We'll continue to do that, in opposition to what we believe is searching under every nook and cranny and in the most inappropriate places for a way to fund a tax cut that this government has promised the people of Ontario.

May I say with regard to the changes concerning workfare, which will be a significant change for the people of Ontario, that what we do know from front-line workers is that so far the whole concept of workfare has been a failure. In fact, we have quite a bit of difficulty finding a jurisdiction in North America that has met with success when they've instituted workfare. The numbers the government has forwarded to date have been bogus. In fact, the ministry has been forced to go back and include a number of recipients who are not truly in the workfare program. They have included those in the numbers and have then purported to say, "These are the people who have succeeded through workfare." The numbers simply are inaccurate.

What we do know is that communities have been threatened to participate in workfare. When you're the government and you hold the purse strings, it gives the government quite a position to make things happen at the community level under threat of withdrawal of other resources that communities desperately need.

In my view, the majority of people who are on welfare are people who desperately want to be off welfare. For people who are on welfare, it is not a wonderful way to live. In fact, it's a very difficult way to live. I would submit, and my party's position is, that people are always trying to get off the system. Where you will have some limited percentage of fraud in the system, I believe the government has used that to political advantage to exaggerate the amount of fraud that is in the system.

I would also ask the minister to review the jurisdictions which she has continually gone to look at, only to find that

other jurisdictions too have admitted now that most of the fraud or inaccuracy in the system actually comes back to government bureaucracy which has made mistakes. We have a bureaucratic group now in this ministry so under stress, so overworked, under threat of layoff, without the money or the tools to do their job properly that, yes, I believe they do make errors. The result of that is that people who may qualify and be very upfront about needing help are the people who are getting caught in this trap.

I have some sympathy for bureaucrats who are working under this regime because they are literally stuck between a rock and a hard place. They have a political master to show them how clearly they've managed to throw people off the system and then they have the public who they know are desperate and really, truly need help. So they're having a great deal of difficulty performing their job under this regime.

I will say, in answer to some of the comments the minister has made here today, that there is clause upon clause in this bill that very clearly shows positions to be unappealable. It is that simple. I know as we go through this process of public hearings, limited as they are, we will bring out example after example where people will be stymied by the system. They will be forced as recipients to access the legal system in order to show that they have some right to access some kind of help from this regime. The difficulty is that at the same time, this is the worst time for people to have to access the legal system. As you know, those are the services that as well are being withheld from the very people who need them the most.

We are very concerned with clauses in this bill that speak to a creation of special classes of people. I would like the government to be very upfront about what it is they're doing. When they say "special classes of people," what does that mean? At any point, a class of people can be created to do what? To be thrown off the system? Are we talking about single, male employables like Michigan state entered into not that long ago? Are we talking about refugees like the southern states are currently in the midst of? What does "special classes of persons" mean?

To someone who would have a less jaundiced eye, maybe that means that the government is going to take a special class of people and give them more benefits. I would submit that, likely, depending on the pollsters and depending on what the polls say at the time, if it's politically expedient, those special classes of people will be thrown off the system.

What's most unfortunate is that we won't know about it until after it happens, because the minister now is in complete control. There is a clause included in this bill that speaks to the minister's ability to write policy and have that policy supersede all other interpretations of the act. What that tells us is that at the minister's whim, she can change the way the very act will be interpreted by the front-line workers. We have a great amount of concern about that.

If I may speak to the disability portion briefly, we really do have difficulty not knowing the regulations in

terms of the definition of "disabled." What does "substantially disabled" mean? How disabled must you be?

1600

We have experience today with this very same regime that says only those most in need will get things like special services at home, that pits one family against another and now, as will be the case, one disabled person against another. It's actually going to be advantageous to be more disabled to get you over the bar, and frankly, once you get over the bar, you're going to find manna from heaven. It's like the government giving you a Cadillac, but then you have a lottery to get the set of keys to actually get to drive it home. Operating in a system like this, we really don't have information that is vital for us to be able to look at the bill and say, "This is good." I would submit to the minister, while she is here, that this kind of regulation would have been very important to table so we could say maybe we can believe, because at this point we've had no indication that we can.

I'd like to speak briefly to the privatization of vocational rehab. People who will work with the disabled will be in private companies, which will be paid how? Will it be on a per-head basis? Will they be paid on commission if they manage to get a substantially disabled person into the workforce? Does that mean then that the private company will want to choose the most employable of the most substantially disabled to help, because that's the only way a private firm would be paid?

If you think this is unreasonable logic, I would submit that it is very reasonable. When you're a private firm, you are driven by your net profit at the end of your fiscal year, and it won't be long before any well-intentioned company will be driven to look at its bottom line. There are some things in the public sector that simply don't belong in the private sector, and I believe this is one of them.

With the level of skilled workforce that we currently have in the Ontario government, people who work with those with disabilities all the time — if they lose their jobs, we have lost a significant level of experience and institutional memory that in the long run will be very detrimental to the government, because we won't be taking care of our citizens as we should.

Finally, I would like to mention that there are examples out there where other governments have gone through this same path. I think it's vital that we look at the errors of other jurisdictions. The Wisconsin model has been widely quoted. May I tell you that the assistant deputy and deputy ministers in that very same Wisconsin model are now on record as saying that they could not cut the system at the same time as they were trying to reform it. They knew that because of the cut they sustained at the same time, they couldn't pay the kind of attention to detail that they needed to make this work.

The Michigan example: My colleague Dwight Duncan and I both come from Windsor. Detroit city is a mile away from us. We watched what happened in the state of Michigan when single male employables were simply thrown off the system. Detroit city is not a place to throw single male employables into the streets, yet that is what

happened. It has taken a new mayor a very long time to change the image of a tarnished Detroit city.

Finally, when we talk about where we're going to go, who we're going to hear from, I would ask all government committee members to see the people who present to our committee not as vested interest groups. That has been the case so far over the last couple of years, that everyone is labelled as a vested interest, some special-interest group. I hope, and from the list I see, that we are going to hear from people who are personally affected by these changes, and I hope we take them seriously.

I do believe that when a government makes policy, it is going to affect every citizen, and they simply cannot just look to those who might vote for them next election time, but must look at how government policy affects everyone. We can't afford to make mistakes, because in this case we are changing people's lives.

The Chair: You have about seven more minutes you can use. Mr Duncan, do you want to say anything? No. Very well. Third party, Ms Lankin.

Ms Lankin: I'd gladly use that extra time. No, eh? I'm going to speak very briefly on the disability income support program and then turn it over to my colleague to address the Ontario Works bill.

Minister, there are just a few things I want to touch on in response to your statement. First of all, may I say again that I think the combination of these two bills together is a travesty of parliamentary process. They are very different in their aims and their goals. There are individual constituencies that are involved that need time to respond to the actual proposals in the legislation, and your government is not allowing that by the process you have undertaken with the time allocation motion and the restriction on the number of hearings.

I want to raise concerns with respect to the eligibility criteria. I think the changes that have been made since you first put out the draft criteria are positive changes, but I remain very concerned when I see so much left to the unknown in regulations. Under the regulations section, subsection 9(1) and others, it indicates that the cabinet essentially can set out conditions of eligibility for income support "including, and without limiting the generality of the foregoing, additional conditions relating to eligibility for income support." That is wide open, Minister.

I believe if you truly are reaching a different level of supports to the disability community, if you are attempting to take it out of the welfare system, then you must be clear in the legislation with respect to eligibility. There cannot be such blanket unknowns left to be prescribed through regulation. Many people in the disability community remain concerned about that.

I also want to speak to the actual definition for disability eligibility and the exception that is placed in here: "A person is not a person with a disability if the person's impairment is caused by the presence in the person's body of alcohol, a drug or some other chemically active substance that the person has ingested, unless the alcohol, drug or other substance has been authorized by prescription as provided for in the regulations."

Again, we're not sure what the regulations will say, but I can tell you that there are people out there — and I've received faxes and letters from individuals and organizations, such as the Harm Reduction Coalition of Ontario, which is a coalition of drug users, community-based health care providers and activists who are working to promote harm reduction strategies in working with drug users in our communities.

Many of these people actually at this time are disabled and are trying to find the strategies to move out of that capacity. For them to simply be disregarded as potentially qualifying as a person with disability with the kind of income supports that might be necessary seems to me like a punitive approach in which somehow you've placed blame and broad-brushed a stroke to a whole group of people, that somehow these are just abusers and therefore are not qualified. I think there must be a much different approach, one that is much more sensitive in dealing with people from that community.

I appreciate your assurance that no one in the disability community will have liens placed on their principal residence. It doesn't say that in the legislation. The legislation says:

"The director shall in prescribed circumstances, as a condition of eligibility, require a recipient or dependant who owns or has an interest in property to consent to the ministry having a lien against the property, in accordance with the regulations."

Again, what the regulations will say, how they can be changed by cabinet at any given time — your assurance in this statement here is not assurance in law, and people are looking for assurances in law.

I also want to just very briefly address the next point you raised, which was the finding of non-capability. You specifically said that the authority to do this already exists for municipalities under the current general welfare system and this legislation just creates a similar authority for all recipients.

If this program, as your parliamentary assistant has said, is about moving away from a patronizing approach to persons with disabilities under a general welfare system — although I believe strongly that a general welfare system shouldn't be a patronizing approach — I fail to understand why you would recreate an authority that existed under the old General Welfare Assistance Act.

1610

Since the time of that legislative provision, there have been changes in the laws with respect to assessment of capacity under substitute decision-making and other pieces of legislation that have come in, the public trustee programs etc. It seems to me that there should be rights afforded to persons with disabilities with respect to a finding of incapacity as set out in other laws. In this particular law you have left that completely to the discretion of the director:

"12(1) The director may appoint a person to act for a recipient if there is no guardian of property or trustee for the recipient and the director is satisfied that,

"(a) the recipient is using or is likely to use his or her income support in a way that is not for the benefit of a member of the benefit unit."

Talk about patronizing. Again, your stated intent with respect to this is to move away from that.

Lastly, I've raised the concern in my question with respect to the privatization of vocational rehabilitation services. I believe there is certainly a portion of the disability community who will welcome support programs to help them enter into competitive employment, but you must recognize that there is also a portion of the disability community that will never be in that situation and that requires the fully integrated, full supports that have been provided through VRS which will not be provided through a fragmented approach of your service coordinators and long-term care, and the home renovations and vehicle renovations and all the other little programs that are out there. You really need to have that centralized and co-ordinated.

Mr Peter Kormos (Welland-Thorold): My concern here is one that I have to address with a little bit of a broader brush. To be dealing with this bill two years plus after the election of this government, when one of the first acts of this government was to slash social assistance benefits by over 21% effective October 1995 — let's look at some of the hard numbers for just a minute.

What did that mean to a single mom with one child, a little kid, a child under 12? It meant a reduction in a maximum total possible allowance — not necessarily what she or he would receive — of \$1,221, reduced by almost \$300 to \$957, providing a maximum shelter allowance of a mere \$511.

It's rhetorical to ask where, in the city of Toronto or quite frankly most of Ontario, does a single mom with a young child obtain anything akin to decent shelter for \$511 a month? Let's put this in perspective, because it's \$511 per month provided as the maximum shelter allowance, and a mere \$446 for all the other expenses for a mom and a child under 12. That's what this government did literally within weeks of being elected, although it became effective October 1 — a significant attack on the poorest people in our province.

That also begs the question about who are the poor and why are they poor and why aren't we addressing that whole broader issue of who is poor in this province and why they are poor? Quite frankly, we've got some very strong and instinctive understanding. We know that seniors are poor. We know that children are poor. We know that students are poor. We know that women are poor by virtue of, if they are employed, being in workplaces that continue to provide substandard wages. Here's a government that by virtue of — what was it? — appendix J to Bill 26, wanted to deny even those women the prospect of some pay equity. We know that non-union workers and workers in a variety of areas like child care and the cultural industry are poor.

We know, tragically, that the numbers of unemployed, notwithstanding this government's claim about net job creation, have remained as they were, and certainly the percentage of unemployed people in this province has not

diminished in any significant way. We also know that of the new net jobs this government talks about, the vast majority of them are part-time, temporary and/or minimum wage or subminimum wage because of the increased utilization of contract workers and commissioned workers, those sorts of things, in a complete abrogation of the Employment Standards Act.

Having said all that, we have to recall what this government did within but weeks of slashing the assistance, the funds available to, among others, single mothers: They increased MPPs' salaries in this Legislature by approximately 10%. Each and every MPP in this Legislature received a salary increase of approximately 10%, and it came down to a gross of \$7,000 to \$8,000 for each and every member of the Legislative Assembly. It is incredible that in conjunction with the slashing of assistance to the unemployed, to single mothers and their kids, this government would increase MPPs' salaries by a gross of \$7,000 to \$8,000 per MPP, which reflects an approximate 10% salary increase. It's a dirty little secret that they were disinclined to talk about or publicize but one which is reflected readily by a careful reading of the pay stubs of each and every member of this Legislative Assembly, predating the Harris government and post-dating it.

The minister talks about, "The welfare system must be fair to those who receive its benefits, and it must also be fair to those who provide the benefits — the taxpayers." If we're going to be talking about poverty, maybe we should be talking about the wealthy who at the same time aren't taxpayers, or at least are not paying their fair share of taxes. We're talking in this vacuum, in isolation, in a context here in this province where great wealth has been generated over the course of the last two years.

Please, take a look at the bank profits last year. This year they're even higher than the record-setting bank profits of last year. Take a look at the salaries of CEOs here in Ontario. Take a look at the returns on mutual funds of 20%, 30%, 40% and even 50%. Take a look at the incredible concentration of that new wealth and again understand how much of a contradiction it is to sit here and talk about nickel-and-diming the poorest people in our province and effectively denying them a share of that wealth.

Quite frankly, I think a process that debates Bill 142 is a sham without a discussion of why we have poverty and who is poor, without recognizing that there is significant poverty in the midst of great new wealth. It's a sham when we're doing it without talking about means of ensuring that there's a fair distribution of wealth here in Ontario and across this country, because that's what it comes down to at the bottom line.

My friend Ms Lankin very properly talks about these two bills combined into one, but don't forget that this minister and this government have done a very shameful thing by pitting groups of poor against other groups of poor — because they have. They are attempting to pit persons with disabilities who, yes, are among the poor in our province, against other poor people who are poor for many other and varied and oftentimes similar reasons.

At the same time, it's a government that talks about persons with disabilities and takes some great triumph in the amendments that will permit persons with disabilities to go into the workplace and return back to social assistance, but doesn't acknowledge that in the course of introducing this amendment to the traditional FBA structure, it has eliminated employment equity. It has basically slammed the door shut in the face of those persons with disabilities for whom employment equity legislation, albeit imperfect, would have provided some respite from the unemployment, from the denial of access to the workplace that being disabled constitutes.

It does it in the same context as it abolishes rent control here in Ontario, so that persons who have low incomes and persons who have no incomes and who are forced on to this government's welfare scheme — because at the end of the day that's what it is. Call it by any other name if you wish, but this is a welfare scheme, as much from the 1940s and 1950s of this century as it is from any other decade. It's an era that I'm old enough to recall, without any great pride. There was an attitude, and Ms Lankin referred to that paternalism and the patronization. It was a matter of merely containing the poor in this province, rather than inviting them and acknowledging their right to share in the economic activity of this province and in the workplaces of this province with fair recompense.

The government has also done all this in the context of this whole orgy of privatization. Again, it talks about fairness to taxpayers, when it has invited its new partners in this particular crime, Andersen Consulting, to engage in the privatization of the delivery of social assistance benefits, where the incentive for Andersen is going to be how much money it can deprive poor people of their share of in what would be part of the pie available to the poorest in our province, at great profit to them.

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So here once again, this government has opened the door to its private sector partners, Andersen — which already has a track record, mind you. That American-based company has some fine track record down in New Brunswick. It has done its fair share of attack on persons with disabilities in the province of New Brunswick as well, with its meat chart system of assessing levels of disability, that incredibly depersonalized and barbaric approach.

I read with great wonderment Michele Landsberg's column on September 28. It was the result of a conversation, an interview she did with three women from Barrie, all of them single mothers it appears, commenting on what it means to be a single mother relying on social assistance. One of them, Monica Petzoldt, spoke of the phenomenon of these life skills programs. Here's a woman who was a spouse and a partner and a mother. The reason she's on social assistance — let me quote her.

"Petzoldt is reminded of the programs designed to 'teach single mums five ways to cook a chicken.'" But what does she reply? She says, "Just give me the god-damn chicken.... Most women are on welfare because they lost their job or they fled a bad marriage. So yesterday, when I had a partner, I knew how to budget and run a

household. Today, I need Prozac and cooking lessons and my son needs someone to give him a muffin and a kind smile."

Laughter.

Mr Kormos: I agree it provokes laughter, but it's a cynical type of laughter, it's a tragic type of laughter, because this woman in her comments to Michele Landsberg hit it right on the head. This government very much wants to divide the poor in our province, wants to speak about deserving the poor and the undeserving poor. It wants to start to draw fine lines, and finer and finer lines.

I say the whole exercise around Bill 142 is a very dangerous one for us to condone, that we should be confronting poverty, the causes of poverty, who's poor and real solutions to it. I say that starts with a fundamental commitment to a fair distribution of wealth here in Ontario, something that Bill 142 doesn't even come close to doing. In that respect, it is a part of the crime rather than a part of any solution.

The Chair: Thank you, Minister, for appearing before us.

As we proceed with the public portion of these hearings, I'd just remind the participants that we're meeting in Toronto for two days. We are meeting today from 3:30 until 6 and then again from 6:30 to 9:30, and tomorrow we repeat that procedure. That is pursuant to a government allocation motion and on agreement by the House leaders.

Those of you who are here will have 15 minutes each to present, and if time permits, the three caucuses will ask you some questions. I thank you for your indulgence in this. I know the time lines are very tight. We want to hear from as many people as possible and we'll try to maintain those time lines.

With that, I'd like to call on Low Income Families Together, Josephine Grey, executive director.

Ms Lankin: Madam Chair, just while we're waiting for Josephine, I would like to put forward a proposal in the form of a motion. I'll have to get Mr Kormos, who is the voting member of our caucus, to actually to put his name to it. When preparing our lists for the committee, I inadvertently made a mistake with respect to the list and did not include the Ontario civil liberties union.

The Chair: The Canadian Civil Liberties Association, I believe it is.

Ms Lankin: I have spoken with Mr Borovoy and explained my mistake on that. I would like to ask, if there is a cancellation in Toronto, that the committee agree to, if possible, provide them notification and invite them to come. It's not likely that will happen and I recognize that, but I would ask for the committee's agreement if there is a cancellation that they be called. I think they provide an important point of view which is not partisan in its basis, and it's always important to listen to that.

The Chair: For the record, Mr Borovoy called me as well, and I concur with your view that his organization is non-partisan. Is there consensus that if there is a cancellation, we would ask the Canadian Civil Liberties Association to appear? Okay.

Ms Lankin: Thank you very much.

LOW INCOME FAMILIES TOGETHER

The Chair: Now, Ms Grey, you have 15 minutes.

Ms Josephine Grey: Thank you for allowing me the opportunity to address this committee. I've come here today on behalf of Low Income Families Together, which is a low-income group which works on solutions to poverty, both in terms of economic and social solutions. I also come as Canada's official observer for domestic issues to the United Nations for the World Summit on Social Development, and as a widowed single parent of four children and a former recipient of mother's allowance — which is what we used to call it — to discuss this bill, which I'm very concerned about.

I'll speak mostly to what we have read in the Ontario Works Act, although many of the measures affect the disability act as well. Although the regulations are not yet released, the premise and the intent of Bill 142 are self-evident. The legislation proposes the most sweeping and unaccountable exercise of power over people's lives in any western democracy, including the unprecedented power to disqualify entire classes of people without consultation or debate.

The Ontario Works Act strips the unemployed of security, removes freedom of choice and restricts access to justice as it introduces indentured labour. To qualify for basic needs assistance, one must satisfy obligations to become and stay employed. Yet the government has no obligation to provide the very employment assistance clients are required to access. It is a trap, creating a permanent cycle of debt, as even dependants of recipients can be forced to pay back workfare income to the system. There is absolutely no mutual responsibility in this bill.

The indictment of anyone who now or in the future may need basic assistance in a time of personal economic crisis is loud and clear. So far, there is an emerging consensus among those who have looked at the bill that it is a recipe for social chaos and despair. This draft legislation has been dubbed "hate literature in legal language" by legal and academic experts, and as a likely future recipient I must say it terrifies me to read it.

Some of the more unique and controversial laws proposed within Bill 142 are:

The power of the minister alone to make and change regulations which prescribe most of the essential provisions and rules of social assistance without consultation or notice.

The power of welfare workers to assign workfare activities or placements without consent or right to appeal. This is how we create a situation of indentured labour.

The exemption of workfare activities from any and all laws applying to employment, including health and safety.

The power to redirect a portion or all of a person's or family's assistance income to a third party, such as a landlord or trustee, who is not required to report on how they spend the income — and this can be done without the consent of the client or access to appeal the decision.

The ability to deduct other government debts, such as child support, OSAP, taxes or fines from basic needs

assistance without consent or appeal. This will cause incredible hardship, as the money is already clearly not enough to support anybody.

The right to hold a spouse responsible to repay an overpayment incurred by a current or former partner: This is bizarre, particularly given that most women on assistance are victims of family violence — I should say single parents.

They also have the right of the tribunal to refuse to hear any appeal which may be considered frivolous or vexatious. This is an extreme limitation to access to justice.

They have the power to privatize any aspect of delivery of social assistance or workfare programs.

The power to require finger-scanning of welfare recipients — which is kind of ironic. There are people in the far north who may not even be able to reach the office to get their fingerprints scanned.

Police powers for welfare officers to obtain search warrants and lay fraud charges against clients: I think the police system is well funded to do this on its own.

The power to lay charges on others for withholding information about a client, for example, family members or social service workers who may wish to protect a client's privacy for personal or professional reasons. As an executive director of a community organization, I have a great deal of difficulty imagining how on earth any agency can undertake workfare under these conditions.

None of this has anything to do with respecting the rights of recipients. I take great exception to hearing the minister say that.

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Around fraud, as far as we can see, Harris's hotline has only produced nine convictions out of thousands of calls. We see the ministry constantly portraying the size of the problem by exaggerating it by including errors and overpayments.

The first offence of fraud, which can be for as little as several hundred dollars, will see the client cut off for three months regardless of need, and six months for the second offence. Fraud includes not reporting small occasional earnings and gifts of food and other basic essentials from friends and family. The cost of fraud measures will far outweigh the return.

Under appeals, the idea that the appeal system is somehow going to be improved is quite difficult to understand. I think any legislation that includes an appeals act has to have rules of fair procedure. There is no mention of the right to representation, and the onus is on the appellant to prove the administrator wrong, although there is no obligation on the government to provide information regarding the rules of the system to clients within draft legislation. I have a big problem with that.

It's important to note that when someone is cut off the meagre income of welfare/workfare, they immediately cannot buy food, pay rent or afford heat or electricity. If an appeal takes too long, homelessness and hunger result. Yet there are only a few decisions which can be appealed at all, and having to face two appeal systems will make the process much longer.

As has already been stated, the 21% welfare cuts and the increasing tendency to deny or cut off assistance have already had a devastating impact.

For all vulnerable people, particularly single parents, mildly disabled people, recent immigrants, who are usually highly educated, refugees and older people, there is an increasing sense of fear and panic as laws such as rent control and employment equity are replaced with legislation designed to exclude them from participating in society. When combined with the Tenant Protection Act, the loss of human rights protection in housing and things like user fees for essential services like water, the effect of Bill 142 can only be devastating.

The income which people on assistance receive goes directly to landlords, grocery stores, and straight into the local economy. This will dry up even further. In my riding, we lost \$1 million a month when the 21% cut came in, and businesses and landlords have already been suffering. Many of these business owners will end up unemployed, will suffer the humiliation of bankruptcy, and will end up on workfare along with their former customers.

In a labour market which displaces 45% of workers in a three-year period, anyone — friends, relatives and neighbours — is in danger of ending up on workfare unless a person is very wealthy or about to retire with a healthy pension.

In Metro, one in three children is on some form of assistance. They are there in part because few employers choose to hire single parents and far too many have no access to day care.

According to the United Way, there are 50,000 people who are homeless in Metro, and this is increasing costs for Metro as it tries to provide shelter. As many as 80% of the immigrants you propose to cycle through endless six-month community placements, temporary jobs and futile job search assignments hold university degrees and could help boost the economy if given half a chance. This system will not do that. Many of the older clients have held jobs and built up their assets for over 25 years. They contributed to this system through their income taxes for a long period of time and should not be asked to repay it when they need it.

It is safe to say that the majority of single mothers and their children live in poverty due to family breakdown and violence, which is often caused by unemployment. There is no attempt whatsoever to take into account the trauma experienced by the victims of violence or to protect their safety. I myself was an abused woman and I can tell you that I take great offence at this. Most women who are murdered are murdered by an ex-partner, yet this system exposes them to greater danger in a variety of ways.

Unless anyone thinks that we shouldn't have had children in the first place, 93% of children on assistance were born before their parents or parent went on the system. What justification is there to rob them of the security and the conditions they need to grow into healthy and productive adults?

I don't understand where the savings are in this. One goal of the exercise is to cut \$1 billion from the system.

As the system will be far more complex and intrusive, the delivery costs can only increase, as has been shown in Wisconsin. This means the savings can only come from restricting access or transferring new costs to other services, such as the CAS. As access is restricted, the rising costs of health, shelter, child welfare, correctional and justice systems will outstrip any potential savings from social assistance as people's lives fall apart, their children are taken into care and some turn to crimes of desperation for survival. I don't understand what is effective about this.

The ability of the ministry to privatize any function in any town or city which allows the creation of a profitable market from the control of poor people is shocking, in my view. The profits will be made by private interests, paid for by people's taxes, while in the end costing the taxpayer more. Once a service is privatized, it cannot be regained to the public under NAFTA.

One thing we demand is an investigation into the legality, contents, projected profits and implications of the Andersen Consulting contract to set up fingerprinting and the privatization of the design of Ontario Works.

As for accountability, there is a need to reform social assistance, and there has been for a long time. There are many ways to do it. I know this because I was deeply involved in the development of draft legislation based on nine years of consultation and study. I was a person who carried out consultation with people on assistance. There's a report here which I'm sure none of you has seen, and you certainly won't find it in the library, that tells you what people on assistance think of the system, what they need, what they want. Let me tell you, the first thing they want is a right to information and dignity. All that research was removed from the ministry library. We didn't need more studies, but they could have read the ones that were done.

The objective of the draft legislation was to ensure an accountable, comprehensive and constructive process to assist people to find self-sustainability. The basic principle was mutual responsibility between the government and the client. It is extremely irresponsible of this government to ignore this body of work.

We're very concerned about accountability. It is very easy to misrepresent the effectiveness of training programs or of workfare programs. Most people leave the system within six months anyway, and tracking is virtually impossible, particularly in a government which makes no effort to do so. No matter how or why people are kept off or cut off, the public will never know the difference other than by observing the resulting social chaos.

Those with more barriers will not find employment under this system. It will not invest the resources needed to assist individuals to achieve self-sustainability, but they can always be accused of mere laziness. It is much harder to say where people go when they leave the system, whether they are homeless or won a lottery. That is why workfare funding in the United States requires in-depth evaluation. It is a condition of the funding.

As long as private sector profits depend on "savings," there is ample motivation and opportunity to profit from ruining people's lives.

The broader implications of Bill 142 threaten the health, wellbeing and stability of individuals, families and communities across Ontario, including your constituents. Taxpayers, including the poor — and we do pay taxes — have a right to demand full accountability from their governments. A public service which provides for basic needs of life has to be accountable to everyone affected or involved, including clients and workers, yet there are virtually no accountability measures of any kind in this legislation. This indicates a complete disregard for the rights and wellbeing of people in need and a blatant defiance of the laws of governance.

Overall, this act threatens to introduce a number of changes which are clearly unconstitutional and violate a variety of international covenants and agreements. Much of the new legislation would not have been allowed under the former Canada assistance plan, which was a framework of legal and fiscal conditions put in place to help ensure compliance with the United Nations' human rights charter, the 50th anniversary of which is next year, by the way, yet the elimination of CAP was carried out without full parliamentary debate.

This government has taken full advantage of the void created by an irresponsible lack of standards and protections in the Canada Health and Social Transfer Act to design a cruel and unjust system quite opposite to the values and principles of Canadian and international law. Whatever the minister may say about her actual intent and how she may tinker with regulations, as long as the wording of this act remains as it is, that is exactly what it is. There is no moral context or fiscal justification for punishing people displaced by global economic upheaval by denying them self-determination and an equal opportunity to participate in society. In fact, the social deficit which will be created will burden the people of Ontario with rising costs of damage control and a legacy of shame for years to come.

The process of examining, reviewing and even building this bill is totally inadequate, as it directly affects the survival of over a million people, half of whom are children. The government must provide the public with a full cost-benefit analysis, not only of the effect of Bill 142 but also the domino effect of related bills which serve to reduce income and raise the cost of living. What effect will this have on the economy and society of Ontario?

As members of Parliament elected to protect our interests and wellbeing, we believe you have a political, legal and moral obligation to withdraw the bill and re-examine the options. If this government believes in fairness, effectiveness and accountability in social assistance, let them prove it. Thank you.

The Chair: Thank you, Ms Grey. You've exhausted your time. We thank you very much for being here and making such a forceful presentation.

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ADDICTION RESEARCH FOUNDATION

The Chair: Could I ask the Addiction Research Foundation, Dr Perry Kendall and Dr Gourlay, to come forward. Welcome, gentlemen. We are looking forward to your presentation. You have 15 minutes. If time permits, we'll ask you some questions.

Dr Perry Kendall: Good afternoon. I am Dr Perry Kendall. I am the president and chief executive officer of the Addiction Research Foundation. This is Dr Douglas Gourlay, who is an addiction consultant to the foundation.

The Addiction Research Foundation is a provincial agency that conducts research and training in addictions. It provides treatment in Metropolitan Toronto and supports and advises community programs throughout the province.

I thank you for the opportunity today to comment on the provisions of the Ontario Disability Support Program Act, 1997, and the Ontario Works Act, 1997. Our submission specifically focuses on the impact of this legislation in its current form on people who suffer from alcohol and other drug dependencies. I'm sure others will be addressing some of the broader issues in the legislation; we will not at this time.

We are concerned that, given the provisions of these two proposed acts, there will be a potentially large number of people with addictive disorders who will not qualify for income support under the ODSP and will not have the capacity to meet the eligibility requirements that can be imposed under the OWA.

Specifically, we are concerned about the exception made in section 4(2) of the ODSP. A person is excluded "if the person's impairment is caused by the presence in the person's body of alcohol, a drug or some other chemically active substance that the person has ingested...." We believe this exception is discriminatory and would strongly recommend that section 4(2) of the ODSP be removed.

A disability should be defined on criteria such as those set out in section 4(1) only. The criteria should not include the reason for, or cause of, the disability. The disability status of persons suffering from addictive disorders should thus be judged on the same basis as for others. To do otherwise can be argued to be contrary both to the Ontario Human Rights Code and to section 15 of the Charter of Rights and Freedoms.

Let me point out that the wording of section 4(2) is quite ambiguous. Construed strictly, it could result in the denial of disability benefits to a quadriplegic whose impairment had resulted from diving into a shallow swimming pool while intoxicated. However much we may wish to express disapproval of irresponsible patterns of intoxication, it would be poor social policy indeed to deny disability status in such a case. Another case comes to mind: An individual with chronic obstructive lung disease as a result of tobacco smoking could also be not eligible for disability classification under this act, whether or not he or she continued to smoke at the present time.

More generally, section 4(2) introduces into the disability system the idea of discriminating among impairments by the cause of the impairment. This is a fundamental break with the principle that impairments should be judged objectively in terms of the degree of disability they are presently causing, including an assessment of actual work capacity.

If a person cannot work, how he or she became disabled has no effect on the capacity to work. Differentiating among impairments on the basis of presumed status in moral worthiness is a big step back into practices from the last century. Going down this path could result, for example, in denying benefits to others who might be said to have brought their misfortune upon themselves: someone whose stroke is judged to have resulted from poor dietary habits, a person with osteoarthritis whose hip joints are seen to be disintegrating because he or she is overweight, or someone whose AIDS-related impairments are judged to have resulted from disapproved sexual contact.

There is no logic for discriminating against those whose impairments are caused by drinking or drug use and those whose impairments are caused by other behaviours which may be seen by one constituency or another as being morally suspect.

It should be noted that alcohol and drug dependence are recognized disorders in both the World Health Organization's International Classification of Diseases and the Diagnostic and Statistical Manual of the American Psychiatric Association. Alcohol and drug dependence have aptly been described as "diseases of the brain." As Dr Alan Leshner, the director of the US National Institute on Drug Abuse, has said, "Addiction is not simply a lot of drug use; it is a disease of the brain, reflecting fundamental changes...in the brains of drug abusers."

"Discoveries about where and how drugs act in the brain," Leshner has noted, "have repudiated the once popular and still too prevalent belief that drug addiction stems simply from a character deficiency or lack of willpower."

Dr Enoch Gordis, director of the US National Institute on Alcohol Abuse and Alcoholism, is equally clear: "Alcoholism is a medical disorder....the disease concept of alcoholism has helped remove the stigma from a clinical disorder that is no more inherently immoral than diabetes or heart disease."

Studies by many scientists, including those at the Addiction Research Foundation, have traced the neurochemical pathways which foster and sustain these disorders. While the disorders are treatable, they are widely recognized as chronic and relapsing conditions. Like other chronic relapsing conditions, they often result in long-term disability.

If persons diagnosed as alcohol- or drug-dependent do not qualify for income support under the ODSP, they could be eligible for basic assistance under the OWA. Section 7(4) of the OWA allows the imposition of a number of requirements "as a condition of eligibility for basic financial assistance." These can include community

participation, participation in employment measures, involvement in basic education and job-specific skills training, or acceptance and maintenance of employment.

Unfortunately, many people with alcohol or drug dependency may find it difficult or impossible to meet the requirements under this section. If they do not satisfy any requirements imposed under section 7(4), they may have their assistance suspended, cancelled or refused.

We presently lack the basic information to be able to tell you what is the size of the population potentially affected by section 4(2) and the requirements under the OWA. Neither disability and social assistance program staff nor researchers in this area have asked questions relevant to the proposed language of section 4(2). Neither are there Canadian studies of the prevalence of alcohol- and drug-dependent conditions among those on disability or social assistance.

There is agreement among those in the system that there is "a chunk" of cases which would be affected, but no sense of the size of the chunk. From the other side, there is little data on the proportion of those in treatment for alcohol or drug dependence who are on disability or social assistance.

Estimates from assessment and referral centres in the province that do ambulatory treatment indicate that about 30% of clients entering treatment are receiving some form of social assistance, and about 6% are receiving disability support. In other parts of the addiction treatment system, such as recovery homes, we would expect even higher rates. It is clear that removal of such cases from disability or social assistance would diminish their chances of getting their lives back together. One treatment service director told us that the clients usually want work, but in the short and medium term their history makes them unemployable.

It seems likely that there will be a number of people with addictive disorders who would not qualify for income support under ODSP and who would not be able to satisfy the eligibility requirements for OWA. We are very concerned about what would happen to these people with no legitimate source of economic support. We fear that there would be more homelessness, with the attendant health and social costs, more violence, and more property crimes as desperate people attempt to meet basic needs. Some people denied assistance might even end up in the court and corrections system, at greater cost than would be incurred under the basic assistance provisions of OWA. Many have families who would be deprived of the resources to meet their basic needs. If they have coexisting illnesses, such as HIV infection, they may not be able to access the drugs and medical benefits that would be available if they were receiving social assistance.

We would like to commend the government for their apparent intent to assist people to enter or return to the workforce. We believe most people in receipt of social assistance would be pleased to enter the world of work. We hope that programs under the ODSP and the OWA can help people build the necessary skills to get work that is available and accessible to them and that pays a

sufficient wage to reasonably support them and their families. It is, however, of questionable wisdom to legislate in such a complete absence of data on the numbers affected and the likely impact of the proposed changes.

In conclusion, we would recommend that:

People suffering from substance abuse disorders should be treated the same as other people in terms of the definition of disability, and eligibility judged according to the same criteria. Section 4(2), as I've said, should be stricken from the bill.

People receiving basic financial assistance under the Ontario Works Act should not have assistance cancelled if a qualified person, as specified in section 4(1)(c), certifies that they are unable to comply with the conditions imposed under section 7(4).

If these recommendations are not followed through, many individuals who are struggling with addiction throughout the province will be exposed to needless harm and suffering.

The Chair: Thank you very much. We have approximately two minutes per caucus. We begin with the third party.

Ms Lankin: I appreciate your presentation. This is a point that I've raised during second reading debate and again with the minister today. The bill as it now stands takes a very punitive approach, and a moralistic one, that doesn't recognize the disease of addictions and doesn't recognize the impact on people's lives. I really don't have any question. I'm in agreement with your proposal that that section be struck. Is there anything else you'd like to add to the comments you've made or impressing on the government members why it's important to strike this section of the act?

Dr Kendall: It may have been the intent of the framers of the bill to try to distinguish between abuse and dependence. Quite clearly, they have not done so in a fashion that is in any way workable; neither, I think, have they thought of the impact on tobacco smokers and the raft of people who are disabled because of their addiction to tobacco and nicotine in the delivery system. Quite clearly, I cannot imagine that it would be anybody's intent to move people with chronic obstructive lung disease, lung cancer, arterial disease or blindness from the disability rolls.

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Mr Jack Carroll (Chatham-Kent): Thank you, Doctor. I appreciate your very objective comments and your suggestions at the end. The minister is on record as saying that if in fact the drug or alcohol dependency causes a disability of another kind, certainly that would be what would be judged. I think we've covered that one in her comments.

In the Ontario Works program, if the condition that a person who had a substance dependency had to meet was to take treatments, would that satisfy some of your concerns, as opposed to having to go out and do community work or those kinds of things?

Dr Kendall: You're raising the issue of mandatory treatment, which is a little contentious in the area. It clear-

ly works in some areas. In fact, we are very supportive of the referral to treatment for people who drive while intoxicated. There is strong evidence that there are reductions in repeat offences and in mortality as a result of that. It isn't universally effective, however, and in some areas it doesn't work, nor in fact, I think, is the treatment capacity in Ontario, which can currently deal with about 60,000 people a year, sufficient to deal with the potential number of people who might be referred to treatment. Also, one of the sad facts is that just like hypertension, arthritis or diabetes, there is no real cure. There is ongoing treatment, but it does often become a relapsing disorder.

Mr Carroll: I have a quick question, if you could help me with this. A person on Ontario Works getting a benefit of \$500-and-one month becomes dependent on drugs. Do you think we can explain to people that that becomes a reason to transfer them over to a disability benefit and give them more money every month so that they can buy more drugs? Can you help me answer that?

Dr Kendall: Well, there are conditions, certainly. It's not merely dependency on drugs, because we have people maintained on methadone across the province who have been employed for 20 years, but they require methadone on a doctor's prescription. If you take the methadone away from them, they will be unemployable and back on the streets and probably, technically speaking, disabled. The issue is really disability, as opposed to the cause of the disability.

Mr Dwight Duncan (Windsor-Walkerville): Thank you, Doctor, for your presentation. I want to explore with you for a moment — and let me preface my comments by saying I spent a little bit of time working in the field — the voc rehab program that's currently offered through the Ministry of Community and Social Services. Addicts and alcoholics can access it now. The people I've seen and dealt with are in need of extensive counselling over longer periods of time, and, as you say, there's no cure. You're always recovering, if you will.

In your view, will this bill and the reforms to welfare and social services in general help that group of people? I believe your foundation has identified tens of thousands of these people in Ontario where, what comes first, the addiction or the dependency? I'm asking you, in your view, will this get more people to break the cycle, make them productive members of society, or will it help to continue to entrap them in the cycle?

Dr Kendall: If, as I read it, there is the potential to remove people from any form of income assistance because of a dependency that was caused by alcohol or drugs, whether it was in the past or ongoing, we don't think that could help them try to pull their lives back together.

Mr Duncan: So the kind of welfare reform I think we'd all like to see is a system that serves hard-to-serve clients, because that's what addicts who are on welfare are, they are hard-to-serve clients, welfare clients who are addicts. This isn't going to make the system better or more cost-effective in your view?

Dr Kendall: Not if they're removed from income assistance.

The Chair: Thank you very much for appearing before us today. We appreciate that you took the time.

Could I ask Mr Simon Kahn to come forward. Simon Kahn?

Mr Kormos: Chair, if I may, on a point of order?

The Chair: If I could just deal with this for a moment, I'll come back to you, Mr Kormos. Simon Kahn, one final time. Could I then ask the Ontario Coalition Against Poverty, Mr John Clarke, to come forward.

Mr Kormos: The parliamentary assistant referred to some comments that he says were made by the minister with respect to the interpretation of subsection 4(2). Is the parliamentary assistant advising us that there will be amendments tabled to give effect to what he states will be the new interpretation or the new application or new effect of subsection 4(2)?

Mr Carroll: The parliamentary assistant was reiterating the intent of the bill as outlined by the minister.

Mr Kormos: It's too bad the bill doesn't read that way. An amendment to that effect would sure be welcome.

The Chair: Mr Kormos, what's your point of order?

Mr Kormos: I've made my point, Chair.

The Chair: There is no point. Very well, thank you. Mr Clarke? We are a little ahead of schedule.

SIMON KAHN

The Chair: Oh, Mr Kahn. My apologies. I'm delighted you're here. You have 15 minutes for your presentation.

Mr Simon Kahn: Thank you very much, Madam Chair. I don't appear before you representing any group or anyone specifically, simply an average Ontarian who has an opinion on this issue. Having read both the bill and background information regarding it, I thought I would make a presentation today.

Essentially, I would say that the problem, as I perceive it and in talking to many people about this issue, appears to be that people find that welfare as it currently functions is not really giving people a hand up, it is giving people a handout; and that in essence, by doing so, it was robbing people of dignity or a sense of self-accomplishment. That sounds simple and perhaps is oversimplified to some, but that is part of the flaw in the current system.

It also is a problem because I think we have a slight culture in our society today of a belief that, somehow or other, we're not responsible for ourselves. While it is important to be responsible for society collectively, which I think people would agree with, we also have to be responsible for ourselves. There's nothing wrong with helping people; there's something wrong with removing from people the responsibility to improve themselves, take care of themselves and direct their own lives.

I also think that a person who receives welfare on a certain level, especially under the current system, is being deprived of a certain element of self-respect. Therefore, welfare has a stigma in society in general. From the point of view of the person receiving welfare — which I have

never received personally, so I can speak only in a hypothetical sense — I can't understand or see how you can be self-respecting or free of this stigma and — specifically because the current system lacks real incentives to help you get a job — how you can get out of the dependency cycle.

With regard to the average taxpayer, which I can speak more about, I think there's a certain belief that there's nothing wrong with helping people who are in need but that no one should be given, as I said, a handout instead of a hand up. No one should be able to abdicate responsibility for themselves. I'm not talking about people who now have a disability or people who can't function or have certain problems that I believe are outlined in the bill and the types of problems that would be defined, but about the type of person who decides, "I want to opt out." The taxpayer feels, "Why should you have the right to do that, while I have to keep working and paying taxes and supporting you?"

At the same time, there's a recognition, which I found in the bill and in the background material, that a person who has other responsibilities may not be able to just go out and work a regular 9-to-5, or whatever, day. In that case, there is application in the bill, for example — and I don't know if this is specifically in the bill or in the background material — helping single parents whose children are in school get work while the children are in school. Now, people will say that's not fair and that's not ideal. I know many people who are single parents and are working. No one helps them, and they work when their children are at school, because they have no choice. If they're doing that to take care of themselves and they are making ends meet, which is very difficult for them, no less should a person who says, "I can't find the solution," be able to abdicate responsibility to the extreme extent.

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I also think, certainly with regard to the OWA — I don't really speak about the issue of disabilities; I make no pretence about that — that if the money was going to help people get work and to help people re-enter the job market and take back more control of their own lives, people would feel that's a useful application of their tax dollars, as opposed to a wasteful one, which is how many people feel about the current system.

I think the changes implemented in this legislation would end that frustration and resentment, because I know many people I speak to on many issues every day — and I'm quite interested in this particular issue; otherwise I wouldn't be here. Everybody I talk to says the same thing: There's not a problem with the principle of helping those who need help; there's a problem with working hard so someone else can have a free ride. Even if you could make the case that that's very few people on welfare — and it's quite possibly true — the important thing is to let the taxpayer know that case has been proven by taking those who would be required to work under the introduced legislation and giving them the ability to do so.

I think it's a matter of fairness, actually, and it extends on both sides. You have to be fair to the taxpayer who

foots the bill, and you have to be fair to the recipient to help them no longer require that handout. That's essentially how I feel.

The Chair: Thank you. Is that your presentation, Mr Kahn?

Mr Kahn: You got it.

The Chair: We have approximately 10 minutes, three minutes per caucus. We begin with the government caucus.

Mr Carroll: Thank you very much, Mr Kahn. It's interesting in your comments how closely what you believe the program to be parallels what Ms Grey, the executive director of Low Income Families Together, said, and I quote from her presentation, "The objective was to ensure an accountable, comprehensive and constructive process to assist people to find self-sustainability." I guess what we have is a difference of opinion about exactly how to get there.

I want to take this opportunity to set the record straight on a couple of things that I think, left as they are, will be disconcerting to people. Mr Kormos went to great length to explain that, coincident with the reduction in payments to people on social assistance, which by the way left us 10% higher than the average of the rest of the provinces, we also increased MPPs' pensions by 10%. That's categorically untrue.

Mrs Papatello: He said "pay," Jack.

Ms Lankin: He said "pay," not "pension."

Mr Carroll: I'm sorry, pay. "MPPs' salaries were increased by 10%" were his words. Mr Kormos is one of the few people in here who takes advantage of a gold-plated pension plan that we have now cancelled. But he gets to take advantage of that. We did away with tax-free allowances —

Ms Lankin: Madam Chair, that is a personal attack.

Mr Carroll: I have the floor.

The Chair: Mr Carroll, I wonder if you could restrict your questions to Mr Kahn.

Mr Carroll: It's my three minutes. I just wanted to set the record straight on that, okay?

I want to set the record straight on a couple of other things. We talk about classes of people and are concerned about classes of people. Classes of people could be persons who are incarcerated. I think we would all agree that this particular class of people should be eliminated from social assistance.

The idea of recipients being forced to pay back welfare from future income, those assignments will only be required where there's expected to be a payment from another source, such as CPP or a pension of some kind. I think we believe that double-dipping would be unfair.

I just wanted to set the record straight on those particular issues and to thank Mr Kahn for his presentation.

The Chair: Mr O'Toole, you have about a minute.

Mr John O'Toole (Durham East): Thank you very much, Mr Kahn, for your presentation. Actually, the nature of your approach was that able-bodied people

really do want to work. Is it your sense that the current system failed that?

Mr Kahn: I don't see the current system encouraging it. I don't think there are structures in place currently that are doing that, which seems to be the motivation behind the current bill.

Mr O'Toole: Do you think this bill moves us closer in that direction, where it really makes it worth your while to make every effort, with a partner or some kind of help, to get full-time employment if that's available?

Mr Kahn: I think it does in two areas. There's the actual logistical way it will do it in the implementation of the legislation and the agencies related, and I think there's another factor people have to take into account, which is creating a culture or the understanding that you have to do this, you have to take responsibility for yourself. I think that's extremely important.

Mr O'Toole: Let me make one more point. I will read into the record a line that I feel is important. "Our plan will focus on helping people to get back to work." That's the Liberal position.

The Chair: Mr O'Toole, you're out of time.

Mr O'Toole: They had mandatory opportunity. That was their program.

The Chair: I think, on that note, we'll move to the official opposition.

Mrs Papatello: Do you feel as strongly about corporate fraud as you do about welfare fraud, Mr Kahn?

Mr Kahn: Absolutely.

Mrs Papatello: I expect to see you in the future speaking to a government committee in that regard and hoping they would move forward with that kind of legislation as well.

Mr Kahn: If, at the time, I feel as aware of the legislation, as interested, I certainly will.

Mrs Papatello: I find it amazing too that you managed to get on the list, given the huge numbers that were trying to get on. Everyone who managed to get on, actually it was like winning a lottery there were so many people who wanted to speak.

Mr Kahn: I guess I'm lucky.

Mrs Papatello: I beg your pardon?

Mr Kahn: I said, "I guess I'm lucky." You likened it to winning a lottery.

Mrs Papatello: Yes. Do you think if the Minister of Finance put a figure in a budget that should be spent on something specific, the Minister of Finance and then the government is obligated to spend what they budgeted when they put it out there?

Mr Kahn: That's a very hypothetical question, because there are many issues involved in budgeting.

Mrs Papatello: But do you think if the intent was there, if it has been budgeted, that it actually should be spent in that area? Would you go along with that line of thinking? For example, if the Minister of Finance budgeted \$40 million for day care for children — because child care in Metro Toronto alone, for example, is the most significant barrier for single moms to get back to work — and then we get to the end of the fiscal year and Mr Eves

admits on national news that he in fact did not spend \$40 million on child care, he has to admit that to one of the reporters, that would be somehow an abdication of responsibility on the part of the government to help those same people you talk about needing that hand to get into the workforce, because there just aren't child care spaces for everyone who needs them, in particular in the Toronto area. What do you say to the minister about that sort of thing?

Mr Kahn: If I knew more about that particular aspect, I would have more of a comment. I would say in principle people should keep their promises. That's something I think the current government is actually doing.

Mrs Pupatello: Even if you knew that the minister had to announce himself that they didn't spend the \$40 million they budgeted and that alone would have helped a whole group of people, as you say, get into the workforce?

Mr Kahn: I can't comment specifically about the \$40 million. I don't know about it, right? So I can take your word for it or not, as it were. I can say that, based on the record of this government, I have seen that the government has tended to deliver on its promises. So I'd be surprised if that were exactly the case, as you put it, but I can't be sure.

The other thing I would say, though, is that I think it's a matter of keeping commitments. What you say may be quite true, but then I look at people I know who are single mothers, who have found some solution for child care.

Mrs Pupatello: Give up your kids.

Mr Kahn: The point is, very simply, ma'am, that a person has to decide who is responsible for them. I have been in situations in my life — this may be surprising. I was in a situation in my life at one time where I had no employment, almost no resources whatsoever and I was not eligible for any assistance other than welfare, and I didn't take welfare. That was a very hard time in my life, but I did not take welfare. Now, I'm not saying that people who do are wrong to do so, but I felt responsible for myself. Before I would make that step, I took all sorts of odd jobs and did all sorts of things that, frankly, weren't highly pleasant or stimulating in order to be able to support myself. I think somewhere in our society is the need for that culture, to say to people, "You too have to support yourself." I'm not suggesting that it's easy. Life isn't easy. But I do think that before people rely on the government to solve their problems, they should also try to solve them themselves. I'm no better than they are.

The Chair: For the third party, Mr Kormos.

Mr Kormos: With pleasure and some relish, I want to give the numbers.

The Chair: You have three minutes.

Mr Kormos: Yes, ma'am. I want to give the details on the salary increase the Tories gave MPPs shortly after they were elected. The base salary for MPPs was \$42,000 a year plus \$14,000 tax-free. Now, bear with me. That was tax-free, so if you gross that up to convert it into a taxable income, let's assume at a 50% tax rate, that \$14,000 becomes \$28,000, and \$28,000 plus \$42,000 is \$70,000 a year. The minimum wage for MPPs in this

building right now — and I say the minimum wage, because most MPPs have perks, vice-chairs, chairs, PAs, what have you, that add to their salary — is \$78,004. That, to me, is a 10% salary increase, because it's the difference between \$70,000 a year and \$78,004 a year.

The pension plan was abolished, but the government still contributes 5% of your gross salary into an RRSP, which is an additional \$4,000 a year, which is not taxed, of course, and is contributed into an RRSP on your behalf.

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So MPPs at Queen's Park have done a hell of a lot better under the Tory regime than have the poor people in this province who suffered a 21.6% cut in assistance and the thousands more who have been denied assistance by virtue of the recent regime of inflexibility and just intolerable cruelty imposed on them by a government that wants to pay off its rich friends with a tax break, pay itself a 10% salary increase, Mr Carroll, and yet deprive the poorest in this province of a liveable level of assistance.

The Chair: Thank you very much, Mr Kahn, for coming here today. I see we have the makings of another debate at another time.

Mrs Pupatello: Mr Kahn, just before you leave, if I could, the next time you are presenting could you call my caucus for our speaking notes so that you're not just beholden to the government for theirs?

The Chair: We want to make sure that everyone gets a chance to be heard.

ONTARIO COALITION AGAINST POVERTY

The Chair: Could I ask the Ontario Coalition Against Poverty to come forward. Could I ask Mr Clarke to come forward. Might I ask you to identify yourself for the record. You then have 15 minutes.

Mr John Clarke: Yes, certainly. My name is John Clarke. I am the provincial organizer for the Ontario Coalition Against Poverty. I shall be making the presentation. Other members of our coalition are in the room; we thought we'd fill the seats.

I have to begin by acknowledging that we don't do a lot of presenting before government committees these days. We generally find it to be a less-than-useful exercise. But Bill 142 struck us as something that we should respond to in the form of a public statement on the record.

We believe that the bill has to be assessed in a certain context. I should begin by explaining that, as a coalition, we are not social policy analysts so much as an organization that actually directly represents the people who are the victims of things like Bill 142. We see at first hand the misery and the suffering that is involved. We've seen the misery and the suffering that has ensued with regard to the social assistance and other policies that have been adopted over the last couple of years.

We know, and our own experience bears this out, that within this municipality, for example, there is now a rampant crisis of homelessness. The United Way acknowledges some 50,000 people without permanent address, the only meaningful definition of homelessness that we're

aware of, and another 135,000 people at risk of being placed in the same boat.

We deal with the institution of Seaton House, one of the main men's hostels within the municipality. We are aware of the fact that now mattresses are being laid down in the corridors and they are at an absolutely overflow situation. The motels in which hostel division places homeless families are so overfull that people are being shipped down to Niagara Falls. That is the context. It doesn't take a great deal of imagination to realize what is going to unfold during the course of this winter on the streets of this municipality.

Now we're presented with Bill 142. Like most New-speak, Bill 142 is assigned the label of something progressive, something that's going to change things for the better. What strikes us is *la plus ça change*, as they say: The more a bill like this is implemented with flourish, the more we become aware of the fact that it in fact represents a turning back of the clock in a very vivid and compelling fashion.

We see the bill as part of an ongoing process of dismantling income support payments to people who are unemployed, people who are poor and people who are homeless. It has to be seen as being linked to federal initiatives that have unfolded, the weakening fundamentally of unemployment insurance so that at the beginning of the 1980s some 89% of people qualified for unemployment insurance and now some 31% of people in this province who are unemployed qualify; as well, of course, the elimination of the Canada assistance plan, which has made possible many of the measures that are contemplated in Bill 142.

This is a bill that talks in terms of responsibility. The rather sycophantic gentleman who showed up before me was full of the term "responsibility." Persons in need, elimination of poverty and all the goals that once were set, however hollow they may have rung in practice, seem to have gone out the window, and we're now dealing with a situation where responsibility to taxpayers and responsibility to the work ethic and responsibility to whatever else becomes the guiding term.

I have to say that this bill takes place in a context where, even in the midst of recovery, unemployment is still a pervasive problem and the central bank of this country still talks in terms of a natural rate of unemployment of 8% or more. Yet, in that situation, the people who are the victims are labelled the architects of their own misery and are told to stand on their feet.

The former legislation offered precious little enough, but I believe that with Bill 142 we are seeing a government begin to grapple with US-style policies of totally abandoning people. We see that in the redefinition of disability, the downloading of single people and large chunks of disabled people to the municipalities, the stepping up of so-called anti-fraud and investigation measures, the toughening up of assets policies, reclaiming earnings, liens on houses and other measures that will ensure that poverty doesn't become a phase in anybody's life but becomes a permanent phenomenon. We are seeing

the weakening of the appeal system, the opening of the door to privatization and, lastly and most infamously, task labour as a condition of receiving assistance becoming widespread in the normal form of receiving assistance.

If anybody knows anything about the history of social provision, you're struck by the fact that this new approach is in fact nothing more than a return to the old days in every sense of the term. Moreover, the vagueness contained within the bill, the large numbers of areas in which regulatory powers will settle the matter down the road, means that the process of denying and neglecting people can be refined for years to come.

Whole categories of people might be denied assistance in the future. There's nothing new about it. In reading this bill and the assumptions and measures that underlie it, we're struck by the similarities that could be drawn to not the new century but the last century. When they put together the English Poor Law Reform Commission in 1834, the people who sat on that committee could have sat round this table and nodded their heads in sympathy with the provisions in Bill 142. The comparison is interesting; I don't make it flippantly. In 1834 they were looking for lots of cheap labour for the Industrial Revolution. Today, the cheap labour that's being sought is cannon fodder for the globalized market.

The US Economic Policy Institute talks in terms of the denial of benefits — aid to families with dependent children — to one million recipients in the United States as being something that would reduce wages by 12% for the bottom 30% of wage earners in that country. We have long believed in our coalition that regressive measures such as are contained in Bill 142 and the previous 21.6% cut have a lot more to do with cheap labour and desperation than they do with anything regarding the meeting of people's needs.

I'd like to make this final point. About a year ago, when we were on our way, rather fittingly, to a protest at this Legislature, we were going through Allan Gardens and we came across the dead body of one of our homeless members, who had died in that park. Every day when I sit in my office with the other organizers and volunteers and members of this coalition, people come to us because they've been denied benefits, because they can't survive on what they are receiving. It has become routine for us to see people break down and cry. We see the misery that's out there, and we know the misery that is going to be increased by Bill 142.

I don't know how politically astute it is to say this and to do this, but I think we would be insulting the people who have come to us in desperation if we engaged in some polite conversation and fielded your questions about welfare fraud and all the rest of it. We're really not interested in doing that.

I'd just like to close by saying, before we leave, that this last weekend we were in North Bay and it seemed to us about half the city was out calling for the defeat of this government. That's what we're working for. I'd like to say that the people you thought were going to be your

helpless victims are going to dance on your political grave, and we'll be there dancing with them.

Interruption.

The Vice-Chair (Mr Dwight Duncan): Order, please. I remind the audience that demonstrations of any type are not permitted in committees of the Legislature.

Mr Kormos: I think they knew that.

The Vice-Chair: Mr Kormos, thank you.

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STEERING COMMITTEE ON
SOCIAL ASSISTANCE

The Vice-Chair: The next delegation is the Steering Committee on Social Assistance, Lynn Wheatley, chair, Madelene Reed and Felicite Stairs.

Ms Lynn Wheatley: Felicite Stairs was not able to be here today for personal reasons.

The Vice-Chair: Could you just read your names into the record, please. You have 15 minutes, starting now.

Ms Wheatley: My name is Lynn Wheatley and I'm chair of the Steering Committee on Social Assistance. I'm here with Madelene Reed, who is a member of that committee also. I thank you very much for allowing us to speak today.

The Steering Committee on Social Assistance is a provincial organization of lawyers and community legal workers from community legal clinics across Ontario, all regions, north, east, south, west and Toronto. We advocate on behalf of social assistance recipients. We've been active in social assistance reform issues in Ontario for more than a decade, and our members have decades of combined hands-on experience with the social assistance system here in Ontario.

As has already come out today, this government has already imposed major cutbacks on the most disadvantaged groups in Ontario through a 21.6% cut in social assistance rates and reduced funding to essential health, social and educational services. This government claims that people are not hurting as a result, but we in the legal clinics across Ontario see daily how people are paying the price of cutbacks through homelessness, child poverty and lack of hope.

This Bill 142, which is currently before the Ontario Legislature and will be law by the end of the year, does nothing to solve the current problems of the system. Instead, it sets efforts at progressive social policy back by decades.

We have many criticisms specifically about this bill and we've provided you with a brief. I believe the clerk has it. It's an 80-page brief. I don't want any moans or groans because it is an 80-page brief. It's what you've asked for. It is a reasonable approach. We've looked at the bill, knowing it's going to be law, knowing that you're not going to change your minds about that, but we have looked it over and made reasonable suggestions on how to amend this so it will be a just and fair bill. It's a long brief but it's an important brief, and we've looked very

specifically at how the bill can be improved. We've also submitted a two-page statement of concerns, and a lot of that I will bring out today.

We must say, although we have provided this brief and done the work, we do think Bill 142 is fundamentally flawed in its basic assumptions, but on the basis, as I say and you have said, that it's going to be law, we've proposed these recommendations to address the technical problems with the bill which are going to cause injustice and hardship if they are not changed.

Our recommendations will provide a better balance between the government's social assistance system and the rights of the people served by this program. That's what we can't forget: the rights of the people who are served by this program and need this program. We do not believe that any of our recommendations would unduly interfere with or obstruct any reasonable social policy goals of any government. This would be a better piece of legislation if you read and apply our recommendations. We ask you to consider our recommendations carefully, as we have contributed our years of expertise to our recommendations and we believe we have been quite reasonable in our approach.

Before I go any further, I have some general comments to make too. I would like to also comment on something that Frances Lankin has mentioned. We are disappointed by the lack of consultation on this bill. We believe the government has deliberately hampered the process of consultation by combining two important and different acts in one bill. The government has continuously stressed how important it is to separate people on disability from the welfare system — that's not what we say; that's what the government has said — yet here we are discussing the Ontario Works Act and the Ontario Disability Support Program Act at the very same hearings, at the very same time, because we're talking about the same bill. Isn't it ironic that in most respects the two systems are still identical? When you look at our brief, we go through section by section, this section on the OWA and this section on the ODSPA; they're the same. That's not what the government said they were going to do. So it's our position that there's certainly not enough time to hear our comments on one bill, let alone two.

Just some general comments: It is our position that Bill 142 is an affront to basic democratic principles. It gives the government unlimited powers over the welfare system. It contains sweeping powers to pass regulations without notice, consultation, public debate or legislative action. No citizen of Ontario has any rights under this bill that cannot be removed by regulation. This is offensive both in substance and process. It's offensive in substance because we do not believe that any government program should give such unrestricted powers to the cabinet or any one minister, especially when people's basic needs are at stake. It is offensive in process because it means that the people of Ontario are being denied the basic democratic right to a full and educated debate on what our most basic social program should look like at a time of great economic upheaval.

We also believe that this bill abandons the value of compassion that we as Canadians believe in. For decades, the most fundamental principle of our social assistance system has been that we would provide at least a bare minimum of assistance to people in need. Bill 142 abandons this principle. Ontario no longer makes any commitment to provide assistance to people in need. The bill allows the government to pass regulations at any time that would cut off whole groups of people: immigrants, single mothers, single employables, anybody. They could just pick a group and they're gone. The government can set time limits for assistance or impose any other restrictions they want without any notice, consultation or debate. Even in the US, where many of these ideas come from, these proposals were the subject of open and vigorous political debate.

This bill also abandons the principle of mutual responsibility between citizens and the state. The government has said that this bill introduces mutual responsibility, where "the recipient has a responsibility to participate in program activities as a condition of eligibility for financial assistance" while the government "has a responsibility to offer employment assistance to the recipient to enable the person to prepare for and obtain employment." This is simply not true. All the responsibilities in Bill 142 are on the individual. There are no corresponding responsibilities on the government. The government has no legal obligation to provide employment assistance. Recipients have no right to such assistance or services no matter how clear their need. There is no right to appeal a refusal of services or the provision of inadequate or inappropriate services.

This whole bill is an attack on the basic rights of citizenship for the poor. As has been already stated, this is nothing more than hate literature in legal language. This bill is deeply rooted in false and offensive stereotypes. The bill says that the needs and interests of people getting welfare are second to the interests of taxpayers, although most welfare recipients had not worked and paid taxes for years.

Poor people are patronized throughout the bill. Welfare workers have unrestricted powers to declare recipients incompetent to handle their own money and to demand endless documentation from recipients, whether or not they are able to produce it. Workers can order people into employment activities regardless of their real needs or whether these activities have any value. None of these decisions will be appealable, no matter how arbitrary or capricious, and the welfare system is notorious for arbitrary decision-making.

For issues that are appealable, the new appeals system is neither fair nor independent. The honourable minister has claimed that there is still a right of appeal, but there is no right of appeal if there is no meaning to that right of appeal. Bill 142 severely curtails the appeal rights of applicants and recipients. Many types of decisions just cannot be appealed, including the decision to pay a portion of a welfare cheque to a landlord for rent, which can result in all kinds of problems if there are issues about legal rent and repair problems.

No decision can be appealed to the tribunal until after an internal review process. The minister has said this will streamline things. It might. It might end up that some decisions are streamlined, but it could also mean there's a process that's lengthy and doesn't accomplish anything, and people end up losing needed income. The new Social Benefits Tribunal will be fettered by government policy and will not be allowed to interpret the law. To cap it off, the government has reserved the power to take away the grounds for appeal that do exist in the bill. There has to be a right to challenge decisions and a right to be heard.

We have specific recommendations about the internal review. We have concerns about the appeals to Divisional Court, which should not be limited to just a question of law alone. In our brief, from pages 50 to 71, we have covered appeals in detail.

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We're concerned about privatization, which has also been addressed today. The government has already started to privatize some welfare services. Bill 142 creates the necessary legal framework for the government to privatize some or all of the welfare system on any terms and conditions the government chooses. Under Bill 142 the Ontario government could sell off welfare to private companies without political debate, public consultation or scrutiny.

We do not believe the people of Ontario are ready to see welfare run for the profit of private companies at the expense of the poorest and most vulnerable citizens without full public debate on such a radical shift in public policy.

I want to conclude by saying that there are over one million people on social assistance here in Ontario, including people with disabilities, single parents and hundreds of thousands of children. Bill 142 will do nothing to solve their problems. It is a mean-spirited and punitive initiative. The people of Ontario deserve better.

The Chair: We have about a minute per caucus. We begin with the official opposition.

Mrs Papatello: I'd like to talk about liens on property. It's a significant move by this government that in essence has changed Ontario's welfare system forcibly into a loans program. What I see about that is, never mind whether people think that's a great thing or not, I view the lien on property as a bar that will prohibit people getting over it when people are in a position of needing assistance, or the process becomes one of divesting oneself of everything before you are eventually forced on to the system. There is about 1% of those who receive assistance — it's a very low percentage — who actually own property, which is interesting, that they would make hay with an area that actually affects very few people.

What is your view of the whole liens issue and the fact that it is essentially a loans program, that they are turning this into the possibility of being a loans program?

Ms Wheatley: We have great concerns about imposing liens on people under both acts. We've addressed that in our brief. It is offensive to us to create a loans program for a program that is supposed to help people in need. It could

possibly take away the only asset someone has been able to accumulate. For example, if a single mother ends up with the matrimonial home, why should she have a lien on that home when obviously the division of property was based on her getting the matrimonial home? We're very concerned about liens and we don't think they're appropriate for a social assistance system.

If there are going to be liens – we've also looked at that; the government may not change their minds – there should be certain restrictions. It should never be on the principal residence. It should be only on the shelter component, not on the whole assistance. When we're trying to give some people help to get back on their feet and we're going to take that money back, it should only be for the shelter component. It should be very restricted. We've listed our restrictions in our brief.

The Chair: Very briefly, the third party, Mr Kormos.

Mr Kormos: Thank you kindly. You referred to the privatization issue, and others have. I just noticed an article in Harper's magazine of August of this year. It's titled "Spinning the Poor into Gold – How the Corporations Seek to Profit from Welfare Reform". It speaks of a major conference that was held at the Park Hyatt, one of those \$300-a-night or \$400-a-night hotels in Washington. Participation cost you \$1,300. Andersen Consulting, a good friend of this government, an American corporation, spoke of "surfing the privatization wave as it sweeps the world."

I should just issue this as a warning: It seems there's going to be all sorts of money gleaned from things like Bill 142 and the privatization component. The problem is that it's going to be pocketed in the tune of, I'm sure, millions and millions of dollars by corporations like Andersen Consulting, and it's going to be stolen from the poorest among us. If that isn't a crime, I don't know what is.

The Chair: For the Conservative caucus, Mr Carroll.

Mr Carroll: Quickly, the policy intent on liens on ODSP is that they would not under any circumstances apply to a principal residence. We've stated that, okay? The policy intent under Ontario Works is that if there was a long period of a person being on Ontario Works, possibly consideration could be given to a lien on a principal residence, say 12 months. How would you react to those kinds of policy intents?

Ms Wheatley: First of all, if it is your intent not to place a lien on a principal residence, we suggest strongly that it be put in the legislation. Why isn't it in the legislation if that's your intent? The second thing is that if someone's on for 12 months, that's a long period of time on welfare. It could be 12 months. Most people are on for shorter periods of time than that; still, they've just been beaten down and beaten down. They've lost their job. They've had bills up to here. They've been beaten down and the lien is just one more whack of the stick to beat them down even further. If they have any equity in their home, and the government is going to grab it, the people who are on the system are trying to get their families back

into the mainstream, if you will, the mainstream of the financial classes, and that is not what this system is for.

The Chair: Thanks very much for coming here. I appreciate your being here.

Mrs Papatello: I have a question to the ministry for information, by tomorrow if possible. Are there currently amendments prepared by the government on this bill that we're not aware of, such as the liens not being relevant to the principal residence? Number two, in the comments the parliamentary assistant made earlier in reference to the special classes of people, he indicated that one example of those special classes could be incarcerated individuals. Could you have a ministry response for me that indicates what would happen to the dependent of the individual being incarcerated, if that is going to be one of the classes of people?

Mr Carroll: No problem. We will get back to you by tomorrow with answers.

AIDS COMMITTEE OF TORONTO

The Chair: Could I call upon the Aids Committee of Toronto to come forward. Welcome to our hearings.

Ms Joan Anderson: Thank you, my name is Joan Anderson. I'm with the AIDS Committee of Toronto. Together we're all members of the HIV/AIDS Community Ad Hoc Committee on the Definition of Disability. We've made the brief this coalition did available to you. However, we're not going to read it to you. We want to highlight some key points and you have the brief as an opportunity, as a reference point, after our presentation.

Mr Matthew Perry: My name is Matthew Perry. I'm the community legal worker at the HIV and AIDS Legal Clinic (Ontario).

Mr Mark Freamo: My name is Mark Freamo. I'm the executive director of the Toronto People with AIDS Foundation.

Ms Anderson: There is one section that is not in the brief that we want to open up with and that is our comment on the Ontario Works part of the act. We want to focus in just for a moment on the Ontario Works portion of the act.

We are also all members of the Ontario AIDS Network, which has a policy of non-support and non-participation for workfare, the community participation as the government defines it. Essentially we oppose this part of Ontario Works because it's contrary to health promotion and voluntarism. We believe welfare recipients should be allowed to do volunteer work with community agencies on the same terms and conditions as any other member of the community.

We believe workfare is a demeaning, punitive approach to people on social assistance. It is regressive. It is simply forced, menial work. It does not provide training or skill development. It does nothing to challenge the stigmatization of people on social assistance, but rather further perpetuates the stigma. We are all health organizations and we know very clearly the links between poverty and disease, and the vulnerability that is created for the poor in

terms of health issues. This government is not recognizing the links that are very important in terms of poverty and health promotion.

If our organizations became participants in workfare it would place us in an untenable position of power with clients and volunteers who are also welfare recipients. If problems arose it would be our responsibility to report people to the government and their benefits would be cut. We simply cannot participate in this kind of a system. As you heard earlier, there are also now police powers in this legislation. All of these issues make it impossible for us to support and participate in this program.

1740

We would also like to emphasize another point that's been made here today, that we do not support a distinction between people who need income support for being disabled or people who need income support for other reasons. We do not believe people who need income support should be separated into the deserving and the undeserving.

We'd like to move into the part of the bill specifically on disability and the definition of "disability." We were very pleased today to hear the minister indicate that there is confusion about the language in the bill and that some parts of the bill are clearly not saying what she intended the bill to say.

At one point — I think this is absolutely critical in the whole area of the definition — the definition talks about there needs to be restrictions in daily living activities in three spheres of life: personal care and the workplace and in the community. We believe that a restriction in one area of activity should be sufficient. The minister today was agreeing with our position and we're very greatly relieved and pleased at that.

She also commented that if the language wasn't clear, it would be changed. We emphatically state it is not clear. It must be changed. It must be changed from "and" to "or," so that this aspect is very clear. Otherwise many people with HIV and other chronic illnesses will be taken off disability benefits.

I'd like to pass over now to my colleagues to talk about other areas of the bill that we have a lot of concerns about.

Mr Freamo: My name is Mark Freamo, as I mentioned earlier. I'm from the Toronto People with AIDS Foundation. We're a social services organization and over 90% of our clients are people who rely on social assistance to meet their daily needs. This legislation has potentially a large impact on them and a large impact on us, in that they rely on us to manoeuvre their way through the system. It also has a larger implication on the HIV and AIDS community sector in general in that there's a significant public health policy impact entailed in this legislation.

I've decided today to speak on two issues specifically. The first concerns the addiction exception and the second concerns appeal rights.

The addiction exception has already been read out twice here today, once by Sandra Papatello and the second time by Dr Perry Kendall, so I won't read it again. I take

it everybody is familiar with it. Quite frankly, especially in view of the increasing epidemic of HIV infection in the injection drug use community, we see this section of the legislation as a public health catastrophe akin in nature and scope to and potentially exceeding that of the tainted blood scandal of the 1980s. Blood will be on the hands of the government that passes legislation which includes this exception.

Apart from the human rights legislation and court decisions which prohibit discrimination against any particular category of disabled people and which have consistently viewed those addictions as disabilities, the government's rationale here must be seriously examined. The government has argued, when we've asked it to justify the exception, that some US studies have demonstrated that disability income support causes addicts to remain addicted and avoid treatment for longer periods of time. What we have to ask here, though, is whether this is really the point. Public health strategy now views harm reduction rather than abstinence-based analysis as key to serving the public interest in preventing HIV infection in the injection drug use community.

The Canadian Public Health Association's national action plan on HIV, AIDS and injection drug use, drafted to respond to an emerging crisis which potentially affects 30,000 Ontarians directly, based on Ministry of Health IDU population estimates which I have here — Perry Kendall didn't have statistics earlier but I have the report here — notes that discrimination and marginalization are key components in promoting HIV infection in this population at risk.

The Canadian Public Health Association, a mainstream and generally conservative organization, bluntly states in its action plan that abstinence is not always a realistic or feasible short-term goal for the individual using currently illegal drugs, and that in the interests of public health, alternative methods must be considered.

Bill 142 is catastrophically and potentially fatally out of step with state-of-the-art analysis in this area. The Canadian Public Health Association document is also available and this committee can have it if it wishes.

Further, the government appears not to be concerned about the corollary impacts of marginalizing an entire population at risk. It may be able to sell its own brand of revulsion to the general public regarding substance users, but what about the sexual partners and their children infected by contact with injection drug users? They will lie at the doorstep of officials who promote this policy, and the culpability of those officials will be as obvious as was the case in the tainted blood scandal. You have the choice here to avoid this tragic outcome to the degree that you do not have to encourage it and you can remove the exception from the legislation. In our opinion, neither moral prejudice nor ideology justifies murder.

We are adamantly opposed to the appeal provisions outlined in Bill 142. We feel that appeal rights for social assistance applicants and recipients are being reduced so drastically as to render those rights meaningless. Essentially we have two general concerns.

First, ministry policy will supersede the law under the new appeal system. Under the Social Assistance Review Board structure which currently exists, ministry policy which directs decision outcomes for applicants and recipients can be challenged at SARB based on the act and its regulations. The new system, which allows an appeals tribunal only the authority to interpret decisions in relation to ministry policy, will force appellants into litigation to seek redress relating to violations or interpretations of the act and/or its regulations.

Given the lack of resources available to most social assistance recipients and applicants, and the time entailed in litigated solutions, the proposed legislation constitutes a denial of fundamental justice. This is more odious in the case of disabled persons in that the government has stated it would do nothing to harm their interests. This will clearly be a lie once Bill 142 is enacted.

Second, the appeal system which exists in the new legislation designates an entire range of administrative decisions unappealable and it prescribes this restriction for residual matters not specifically addressed in legislation.

Appeals may be cumbersome and costly as far as administering social assistance is concerned, and we heard about the time element earlier and, inferentially, the cost element, but we have to ask whether society's most vulnerable members should be asked to forfeit their rights, especially when the rest of us would ask that our rights be upheld at all times. We don't think cost should be an issue as far as the ability of the government and the ability of this Legislature to uphold basic concepts like justice and democracy is concerned.

Mr Perry: What is clear from the appeals process as proposed in Bill 142 is that the most vulnerable individuals in our society stand to lose even more of their basic rights. I want to present to you today three examples of the way in which the proposed appeals process is a fundamental breach of those rights.

Talking about the internal review process, as it stands now the right to appeal a decision about the amount of or one's eligibility for assistance is too easily lost. Bill 142 says that no individual has the right to appeal a decision unless an internal review of the ministry's decision is first requested and carried out. The legislation, however, provides no framework for the carrying out of the internal review process. Time limits for requesting an internal review, as well as the time frame for completion of the internal review, are left to regulation and are therefore both unknown to us and subject to change without notice or public consultation. There is no right to appeal a decision once the time limit for requesting an internal review has expired and no review was requested. There is no mechanism for seeking an extension of the time limit for requesting an internal review.

Bill 142 contains no requirement on the part of the ministry to have benefits continue during the internal review process and the ministry is not required to notify you of any of its decisions during or after the internal review process. If the ministry simply never completes its internal review, you have no remedy and you never get the

right to appeal to the tribunal because the internal review has not been completed.

Let me show you how the appeals system as proposed in Bill 142 would work in real life for someone with HIV or AIDS. Imagine you go into hospital with a bout of pneumonia, and while there or on the day you go in, receive a notice that you have been cut off benefits for failing to provide a rent receipt. While you are in the hospital being treated and recovering, the time frame for requesting an internal revenue is passing or has elapsed. Failing to request the internal review has caused you to lose all right to appeal the original decision to cut you off and that decision becomes final.

Your only recourse at this point would be to go to court to force the ministry to start the internal review process. Remember, though, that while you are doing all this, there is nothing which guarantees you will continue to receive benefits, so you will have been without any income support for that entire period.

But that's not all. Imagine, in the same scenario, that you do get the notice and you do request the internal review within the time limit. Bill 142 does not require the ministry to notify you of any of its decisions in the internal review process. They may decide the original decision was correct, but without any notification, how would you know to request an appeal? Once you miss the deadline for appealing the internal review, you lose all right to appeal that decision.

This legislation, and not the regulations, must include the requirement on the part of the ministry to notify individuals of any decisions it makes during the internal review process. The legislation, and not the regulations, must include the time limit for requesting an internal review, for the completion of the internal review, and a legal remedy for individuals whose internal reviews are not completed within the time limit. The legislation should also not include an open-ended list of items which are not appealable.

Minister Ecker speaks of the disability support plan as promoting and ensuring personal control, choice and effectiveness. These were the words she used this afternoon. In the Ontario disability support program no appeal lies to the tribunal with respect to a decision to appoint a person to act on behalf of a recipient. The fact that appeal rights are listed in Bill 142 in the negative is evidence of how deeply problematic they are. Denying individuals the right to appeal the appointment of a trustee or direct payment of benefits to a third party is completely unacceptable. We already see abuses arising out of powers of attorney. Bill 142 sets up the possibility for such abuses, but provides no legal remedy.

Imagine a man living with HIV or AIDS in a same-sex relationship who lives with his partner. The ministry appoints his parents as trustees because they feel he is not managing his benefits appropriately. His parents have never approved of their son's sexual orientation or his choice of partner. As trustees who are not, according to Bill 142, accountable to their son, they stop paying his share of the rent, resulting in his eviction. Because they

control his finances, his parents can dictate where their son will live. His partner, meanwhile, has lost his home and lost his partner. The son has absolutely no legal recourse because he has no right to appeal the appointment of his parents as trustees. The potential for this kind of abuse is not insignificant within our community, where a majority of individuals currently living with HIV/AIDS in Ontario are gay men.

No appeal lies to the tribunal with respect to a decision to provide a portion of income support directly to a third party. Take the example of the individual who lives in an apartment where a toilet runs constantly. The ministry has decided to pay your rent directly to the landlord. After complaining to the landlord about the problem, he tells you to fix it yourself. But you can't use a portion of your rent to fix the running toilet because it's being paid directly. The landlord gets his rent and you lose the right to withhold your rent for disrepair.

The examples I have listed above are common to those in the HIV/AIDS community. Individuals with HIV/AIDS are already stigmatized within our society. Poor people with HIV/AIDS face a double burden. To force these people to ensure their right to appeal decisions made about their income support through the courts is to guarantee hardship, stress and resulting ill health. I ask, does this government want that responsibility?

Finally, I would like to take a moment to address the issue of those individuals who will be transferred on to the new legislation when it comes into effect.

We have been told that individuals with HIV, and all people currently receiving benefits, will be transferred on and those with HIV will not reassessed in the future. We need to see that promise carried through. We take the position that if individuals who are currently in receipt of benefits are to be grandfathered on to the new legislation, there should be a guarantee, should they become subject to reassessment after the enactment of Bill 142, that they be reassessed under the eligibility criteria through which they were originally deemed eligible. To do otherwise would change the rules of the game in midstream and have a serious effect on individuals' abilities to maintain stability in their lives.

I would like to remind you that I am before you as a representative of the HIV/AIDS community. In no way, however, do I or any of us here wish to convey that the difficulties and problems we have outlined in Bill 142 today are exclusive to this population. The drastic changes to the appeals process would have a devastating effect on every individual who comes into or who may come into contact with this legislation.

The Chair: Thank you all very much for coming here today. On behalf of the committee, we're very grateful.

Ladies and gentlemen, we are recessed until 6:30.

The committee recessed from 1755 to 1831.

The Chair: Ladies and gentlemen, good evening. For those of you who are joining us for the first time, I want to review briefly that we are operating under a time allocation motion of the government. In concurrence with the House leaders, we are meeting in Toronto today and

tomorrow from 3:30 to 6 and from 6:30 to 9:30. To accommodate as many people as possible, we have a time limit of 15 minutes per presenter.

DAILY BREAD FOOD BANK

The Chair: I call upon the Daily Bread Food Bank. Welcome, Ms Cox. I'll ask you for the record to introduce your fellow presenters.

Ms Susan Cox: But we can have a minute to gather the flock around us, right?

The Chair: Absolutely.

Mr Kormos: Chair, there's already a quorum call in the House, and they expect to sit till midnight four days next week? How are they ever going to keep a quorum next week?

The Chair: That's out of consideration for this committee, Mr Kormos. Thank you for bringing it to our attention, though.

Mr Kormos: Chair, if I may, the quorum problem is not just in the Legislature.

The Chair: There are five of us. Mr Cullen is substituting for Mr —

Mr Kormos: But if Mr Cullen has to leave for a phone call, we'll lose quorum.

The Chair: For the moment we have quorum, Mr Kormos. I appreciate that it's the opposition that is maintaining quorum at the moment. Ms Cox?

Ms Cox: It certainly is disappointing not to have many members of the government here, since it's to them that my remarks are addressed. But I do welcome the opportunity to be here and I'm sure they'll take the opportunity to read our brief.

First of all, let me introduce who is here. I'm Sue Cox, the executive director of the Daily Bread Food Bank. Beth Brown is one of our researchers, Alexandra Humphrey is a board member at Daily Bread Food Bank and George Panagapka is a volunteer at the food bank, particularly working in our drop-in centre.

There are lots of things in this bill that we find upsetting that we can't go into because of time constraints, although some of them are outlined in the brief. I think it's fair to say that we have an overarching concern about this bill, which is that it drastically changes the nature of welfare, in the way we give help to our neighbours in the province of Ontario. I don't think we should even talk about welfare, the unemployed and victims of family breakdown any more. I think we've kind of reinstituted the workhouse right now, even if we don't actually have a building to put it in.

One of the really startling examples of this is in the relationship between income support and loans. Let me turn to Beth now to talk more about that.

Ms Beth Brown: Having read the 86 pages of legislation, I would like to highlight a key piece that worried us particularly. The new legislation allows welfare to be considered a loan. There is a specific clause within the legislation called "assignment of expected income." As many of you are aware, this is a concern we have about

people having a debt load after they leave social assistance.

With this assignment that people would be forced to sign before becoming eligible for welfare, we envision that they could leave welfare by getting a job and then be forced to pay back any assistance they received to the province as they're working and suffer quite a severe level of poverty because of a debt they owe the provincial government, ultimately a debt that may put them back into poverty and back into a food bank. We are very opposed to that piece of the legislation, which is quite explicit about expected income. We don't know what "expected income" will be in the long term, with the regulations, but the way it's worded in the legislation it leaves us little doubt that welfare is now a loan.

Ms Cox: We've been worried for some time about people with disabilities, and we've spoken out about this before. People who have disabilities who are on the family benefits plan are a small percentage of food bank users because FBA benefits are normally adequate enough to have people avoid having to go to a food bank for extra help.

We do appreciate in this bill the fact that it will make it easier for people with disabilities to work. We think that's a plus. We also appreciate the fact that those who are on FBA and are disabled will be grandfathered, but we see in the future, with the redefinition of "disability," that a lot of folks are going to end up in food banks as a result. We're talking particularly about the classification we call permanently unemployable, with serve constraints to employment but without a severe disability. In future they will not be able to get on to family benefits.

Six per cent of food bank users who are on general welfare classify themselves as disabled right now; they are never going to be able to get on to the family benefits plan. As more people become disabled and enter into the Ontario Works program, they're never going to get out of it and on to disability, so they're never going to get that adequate income.

We're also concerned about people with addictions who are no longer defined as disabled, yet for a lot of them it's the ability to be on family benefits and have adequate support that has enabled them to overcome their addictions and get out of that situation. We think this is a very shortsighted policy. I'd like you to meet one of the people who falls into that category. That's George, who is here at my left.

Mr George Panagapka: I'm George Panagapka. I'm 40 years of age. Until recently, I had used drugs and alcohol for 25 years. As a result of that, I've ended up on welfare and eventually on FBA the last couple of years.

On November 8, 1996, I had my last drug and my last drink. Essentially, since then I have rebuilt my life. I work two afternoons a week at the Daily Bread Food Bank at a drop-in there; I run a drop-in. I want to stress that I am a volunteer. I'm also a volunteer at Parkdale Community Health Centre. I work with the street health program there. The fact that I'm here is a result of that program. I also

volunteer on other homeless- and addiction related-issues throughout the city.

The goal I have in my life right now is to go back to school next September. I want to become a community worker so I can do this kind of work and get off welfare and become a contributing member of society. But I have to ask myself, how does this legislation affect me and how does it affect my plans? What incentives will I have to become again a contributing member of society? What incentives do the people who are where I was at a year ago have under this new legislation?

Finally, I'd like to point out that this legislation will have a drastic effect on people with alcohol and drug addictions.

Ms Cox: Let me turn you over to Beth again to talk about workfare.

Ms Brown: There are many things we could say about workfare. I'm sure it's been noted on the public record that the Daily Bread Food Bank is opposed to workfare and we really don't like the assumptions underpinning workfare at all. We'd like to point out a few assumptions that people have in the world about food bank users, particularly those on social assistance, that are perhaps erroneous — in fact, we believe they are — that underpin some of the ideas around workfare.

We find that 56% of the respondents who answered our annual survey last year had never received welfare in the past. Most importantly, the majority of the people receiving food assistance and social assistance have only been on the system for less than 18 months. So it's not this profound poverty that people seem to think is a cyclical system. It doesn't seem to manifest itself that way in Canada. It does in the United States, but not here yet.

1840

The majority of the children in our 1997 survey were not newborns, were not born of parents who wanted to stay on the system so had a child. The average age is between 5 and 12. They are mostly families who have suffered either unemployment or family breakdown. Those are the people we're seeing in our food banks and those are the children who are suffering child poverty, and those are the people we are hoping will not be further impacted by workfare. Unfortunately, the legislation doesn't seem to support that.

We would really like you to know, most importantly, a bit about their situation and what it means to be a single parent with children. To further your information on that, I'd like to pass it over to Alexandra Humphrey, who is a volunteer and a single mother.

Ms Alexandra Humphrey: Good evening, Madam Chairperson, members of Parliament. I appreciate the opportunity to be able to come here and address you this evening. I am a single parent of six children. Four years ago, as a result of a divorce, I became the sole-support parent for my children. At that time I determined that I needed to have additional upgrading of my skills to be able to access a job that will give me enough income to support my family. I entered post-secondary education; I went to university. It was a struggle during those four

years, particularly during the last year with the many changes that came down, almost every one of which impacted me personally. Right now, I do have full-time employment.

When I look at this bill, I wonder how a person like me will be able to upgrade and access a job, through the types of changes being put forward in this bill. People like me need to be supported, not punished. Many of these changes will mean that someone like me will remain in poverty for the remainder of her life. It's an issue that needs to be looked at very seriously.

Ms Brown: In particular, to pick up on Alexandra's point, if you're going to implement workfare fully, we would really like that single parents are exempt from the employment requirements, particularly parents with children under school age or children with special needs.

Ms Cox: We're running out of time, but a few other things we'd like to touch on. We wonder why the bill wants to punish older workers, the 60- to 64-year-olds. I'm almost there myself. Right now they are only 4% of food bank users. Their opportunities to work are limited. They suffer discrimination in the workplace. Their health is poorer. Please let them stay on family benefits so they can enjoy at least some level of dignity as they are getting older.

Ms Brown: I'd like to quickly touch on one last piece of the legislation that bothers me as a Canadian and as an Ontarian. We always assume in Canada that if you're of sane mind you have control over your own affairs. The new legislation allows the government and the welfare worker or the Ontario disability support program director to appoint an informal trustee that can manage a recipient's affairs. That is only if the worker thinks the person is going to misuse or is likely to misuse their benefits. In other words, if the worker thinks the person is going to spend their cheque inappropriately, they can appoint an informal trustee.

That informal trustee could be a landlord, it could be a sister who doesn't like you, it could be a service provider. It could be anyone the welfare worker deems is appropriate. That decision to appoint the trustee is not appealable and the decisions of the trustee are not appealable. If we can look at something that we as Canadians would really not like to be in the bill, that would be a piece that we'd hope would be removed.

Ms Cox: Finally, all of these things, including that one, are no longer as appealable as they once were. The right to appeal is severely curtailed in this bill. You can only appeal, basically, if the welfare office lets you do so. I think this is an affront. Most of us are used to being able to appeal anything from our Sears bill to a parking ticket in our society, but that right is removed. Our final recommendation is that there be no reduction in access to the ability to appeal; in other words, that that stay the same as it is right now.

I'd like to stop right now and see if there are questions. I did okay.

The Chair: You did very well. We have less than a minute per caucus, so if we can limit it to one very brief question, we'll start with the third party.

Ms Cox: No, we started five minutes late, Madam Chair. I hate to be pushy, but —

The Chair: That's okay. The three caucuses have a tendency to run on.

Mr Kormos: I was just earlier today referring to the cut in assistance that happened in October 1995. I saw that a single parent and a child under 12 receive are eligible for a maximum of \$957: \$511 for rent, shelter allowance; \$446 for everything else. Can you tell us what that budget means to a single mom with a 10- or 11-year-old child in Toronto?

Ms Cox: Do you want to talk about that, Alexandra, from your perspective, or would you rather we did?

Ms Humphrey: This is something that I was referring to with regard to hardships coming upon me in the last year particularly. As a result of those cuts, I've had to do a lot of things I never thought I would have to do to be able to feed my children. One of them was to accept leftover food from the child care centre my children went to in order to have enough food for them to eat for the month on the type of money I had to live on throughout my education.

I can't see how anybody can live on that kind of money. My rent is \$1,100, and I couldn't get anything less than that. It has been a tremendous hardship, on top of being a single parent and having to do all the work to upgrade myself to be able to get a better job.

Mr Carroll: Just a quick comment on the welfare-assistance-loan issue. I understand your concern with that and I appreciate your concern. The intent of the bill that has been stated and that I will reiterate today is that the government should have the right to ask somebody who is expecting income from another source, such as CPP or a pension or an accident or a settlement — they should expect those people to agree to an assignment so that when their award or whatever does come through, if it covers the same period of time for which they received social assistance, they would in fact pay that money back to the taxpayers. That's the intent of the legislation. That does not make Ontario Works a loan program and it is not our intention.

Mrs Pupatello: If the Conservative members are going to continue to put that forward, I suggest they forward an amendment so the intent is actually written into the law we are debating, because it certainly isn't like that to date.

I would like to ask Alexandra what you would tell Simon Kahn, who spoke to us this afternoon. He said this is your responsibility for being in the shape you're in right now. He said he's been in hardship before and he refused to go on the system. Frankly, I found him pretty offensive, because he gave everyone the impression that it's really your fault that you are where you are. What would you tell Mr Khan?

Ms Humphrey: It's difficult to respond to something like that. It isn't my fault, and it's not people's fault when they have needs. In this society, in Canada, we are neighbours to the people who are in need and we help the people who are in need. We don't kick them and slam

them into the ground with policies that are seemingly designed to keep them down below.

I just can't describe the hardship it is to be a single parent and to have to live on that kind of income, it becoming less and all the other supports being taken away. It's not possible for a single parent or any person to upgrade themselves to be able to get a job when all those things are happening at the same time, things that tear away at support.

The Chair: Thank you very much to all of you for coming, particularly to Mrs Humphrey and Mr Panagapka for sharing your stories with us.

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ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair: I call the Ontario Public Service Employees Union, Ms Casselman. Welcome to our committee. We're pleased to have you here. You have 15 minutes.

Ms Leah Casselman: I've come in out of the rainstorm. Mother Nature is celebrating our victory on 136 with us tonight.

The Chair: We're anxious to hear you on Bill 142 as well.

Ms Casselman: We'll hope for a victory there as well.

I'm pleased to be here today to present our views on this piece of legislation the government has brought forward. I come with a warning to the government — surprise. You are about to make one of the most costly policy mistakes of your tenure. Even your friends and allies think you're wrong on this one.

OPSEU represents 1,900 income maintenance officers, support staff and service specialists who work on the front lines of Ontario's social assistance system. They of course are not the ones who make the policy; they are merely the ones who have to implement it.

We are the professionals who deliver the family benefits assistance program to more than 250,000 households across the province. Among other things, we determine eligibility and are responsible for the day-to-day caseload management of the program. As you can see, we are in a unique position to comment on Bill 142, the Social Assistance Reform Act.

To put it bluntly, Bill 142, with its creation of the Ontario Works Act and the Ontario Disability Support Program Act, has all the makings of a social policy disaster. It's a disaster for the poor who want good-paying jobs but instead will be transformed into an army of cheap labour. It's a disaster for the rest of us, who could see our paying jobs being replaced by work-for-welfare. After all, given the choice, wouldn't an employer prefer to hire a welfare recipient at miserly wages over workers covered by a collective agreement? Last, it is a disaster for the communities that will now be expected to contribute 20% towards the cost of welfare benefits and 50% of the delivery costs.

In the meantime, the expertise of those who work in the system may be lost. Cash-strapped municipalities feeling the squeeze may opt to privatize their social assistance system. Bill 142 allows them to do that, putting the quality of our services at risk and threatening the livelihoods of 1,900 public sector workers, dedicated professionals who contribute to their communities' economies all across the province.

I'll expand on these themes in my remarks today. Our brief is a more detailed critical analysis of specific sections of the legislation.

Bill 142 creates the Ontario Works Act, legally mandating workfare for 100,000 sole-support parents in this province. I'm sure the committee will hear from many knowledgeable critiques of workfare, so I will limit my comments to the following.

Workfare doesn't work. Making people work for meagre welfare payments will not solve the ever-growing caseloads of social assistance recipients. It's simple really: There aren't enough decent-paying jobs to go around. With an unemployment rate of 8.2% in Ontario, the demand for work far exceeds the supply. If the government were really interested in reducing the social assistance caseload, it would pursue a job creation strategy, giving people the opportunity to contribute to their community without demeaning them in the process.

Workfare replaces paying jobs. Not only does workfare not work for people on social assistance, it's a threat to the rest of us. Experience shows us that workfare programs do not create new jobs; they replace existing ones.

For example, the Alberta community employment program, ACE — Klein must have thought up that name — provides jobs for people on welfare at \$6 an hour. In early 1996 the Red Deer hospital laid off full-time permanent workers and replaced them with inexperienced and inadequately paid ACE workers.

In the province of Quebec, more than 50% of participating companies admitted that they would have hired people at full wages if not for the provincial employability programs. McDonalds, Canadian Tire, Harvey's, Dunkin Donuts and Zellers are just some of the companies that benefited from workfare labour.

In New York, close to New Jersey, where Mr Harris's idol comes from, the figures are even more devastating. In a state where 22,000 public sector workers have lost their jobs, 35,000 social assistance recipients have replaced them. That's 22,000 decent-paying jobs, putting cash into the local economy, being slashed in favour of jobs that pay recipients — this is American money, so you'll have to convert — \$1.80 an hour. How much business is a local grocer or a local hardware store going to get from that tiny amount of money? Not a whole lot, I'm pretty sure.

We regard workfare as an attempt to lower wages and to lower the standards of work in the public sector. Rest assured that OPSEU members will not stand by as our collective agreements are circumvented by near-slave labour.

Let's make one point very clear, though: People are not social assistance recipients by nature, but workers without

jobs. Wouldn't it make more sense to find them long-term, decent-paying jobs so they can be contributing members to the community once again? It's the community that's the loser in all of this.

Bill 142 offloads social assistance to the municipalities, shifting the cost to the property tax base and in the process creating 50 new bureaucracies. Does this new system sound like it will eliminate overlap, waste and duplication, as the government claims? It sure doesn't to me or to the 1,900 OPSEU members who work in the system now. If anything, it will create more of a tangled mess, especially since the experts all agree that helping communities cope with poverty is a job for the entire province. When communities lose jobs, social assistance costs go up just as the property tax base is going down. Pooling the risk makes the most sense. We would agree with Minister Leach — although he needs to expand his horizons beyond the GTA — that pooling across the province is what works.

Paying for social assistance out of the property tax base does not work. Even the government's friends and allies think it's making a big mistake. They've all made the point that I'm about to make to you again: Social assistance is about redistributing income, not servicing poverty.

The end result of this downloading disaster will be a patchwork of fragmented services. Some places will have better benefits, some will have worse benefits and some will have no programs at all. Poor people will suffer and so will the municipal ratepayers.

The social assistance selloff: The only winners in this mean-spirited, regressive legislation are private contractors. Bill 142 opens the door for the privatization of the system, whereby our social services are handed on a silver platter to private companies, treating our vulnerable citizens as if they were pawns in a corporate world. This invitation to privatization may be too much to resist for cash-strapped municipalities anxious to avoid rising taxes to pay for increased social assistance costs.

The provincial government has already started to sell off by hiring a US-based firm, Andersen Consulting. This company, one of the world's biggest corporate consultants, could make as much as \$180 million over the next six years for advising the government on how to cut costs in the management of welfare. As an aside, though, they were fired by a couple of other provinces for being quite incompetent, but it seems Ontario hired them anyway.

Could the Texas solution be too far behind? In Texas, Andersen Consulting competed with Electronic Data Systems and Lockheed Martin, the world's largest defence contractor, for a five-year contract to run the state's entire welfare system. Do we really want to leave our vulnerable citizens to the mercy of private companies whose sole interest is making a profit off their need?

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The expertise of OPSEU members is lost. Just when their expertise is needed the most, the 1,900 OPSEU members responsible for delivering welfare in the prov-

ince face being laid off by municipalities anxious to cut costs. Under the Conservative government's regressive labour law, Bill 7, these employees will have no union and no collective agreement when they are downloaded. Bill 136 continues the government's attack on public sector workers by treating them as non-union employees. Now AMO officials are complaining about being forced to hire OPSEU members.

We are putting the government on notice that we will expect the province to live up to its reasonable efforts, which we negotiated after that five-week strike last year. You have obligations under the OPS collective agreement, which I know Mr Johnson is painfully aware of. This requires the government to find employment for OPSEU members whose work is transferred out of the public service. This employment must have wages and terms of conditions of work as similar as possible to those in the Ontario public service.

The government has already been ordered by an independent arbitrator to live up to the agreement and we demand to know what the government is going to do to ensure that OPSEU members have jobs with the municipalities. We will keep pressing the government on this point until we receive assurances that our members' expertise won't be lost when the downloading goes ahead.

Provincial delivery is best. OPSEU has a solution for the government: Scrap Bill 142 and replace it with a single-tier social assistance system that is provincially funded and administered. After all, that's how every other province does it. Why? Because they recognize that an integrated welfare system is the best way to ensure an efficient and accountable system. For over a decade now, OPSEU has been advocating for such a system. Funding it through income tax and having it administered and delivered provincially makes a lot more sense than setting up 50 new bureaucracies on the backs of the municipal ratepayers, who can't afford them.

Before I conclude my remarks I want to say a few words about the other piece of legislation created by Bill 142, the Ontario Disabilities Support Program Act. OPSEU is concerned, as are advocates for people with disabilities, that the narrower definition of disability outlined in the ODSPA will deny some disabled people from accessing the income support they need.

We are also concerned about the termination of vocational rehabilitation services. OPSEU represents 150 counsellors and support staff who work in this program. Your committee will hear from them later this evening, so let me just say at this time that we are concerned that the elimination of this program will make it harder for people with disabilities to receive high-quality supports, if any at all. Replacing VRS with private service providers threatens the quality and accessibility of these very important programs.

In conclusion, let me say that OPSEU doesn't normally have much in common with business groups like the Metropolitan Toronto Board of Trade, but when board of trade president George Fierheller said that the down-

loading of social assistance was "not logical, not sensible, not reasonable," we think he hit the nail right on the head.

Bill 142 is not logical, not sensible and not reasonable, for the very reasons I have outlined above. Forcing people into short-term jobs with few meaningful career opportunities won't lower social assistance caseloads. Making municipalities pay for the whole new bureaucracy out of their property tax base won't eliminate waste or duplication. Threatening the jobs of the people who have the most expertise in the system won't make the transition any easier. I urge the government members of this committee to rethink the bill.

The Chair: You've all but exhausted your time. We thank you very much for making the presentation to our committee.

ONTARIO COUNCIL OF ALTERNATIVE BUSINESSES

The Chair: I call upon the Ontario Council of Alternative Businesses, Diana Capponi. Thank you for being here. You have 15 minutes for your presentation. If there's any time left over, we'll ask you some questions.

Ms Diana Capponi: Thank you. I guess I'm supposed to thank this committee for having me here to speak; I don't know what the protocol is. My name is Diana Capponi. I'm with the Ontario Council of Alternative Businesses. I'm a psychiatric survivor, otherwise known as a crazy person, or a consumer-survivor of mental health services.

I came here to talk specifically about the Ontario Disabilities Support Program Act, which is in schedule B, and the employment supports programs proposed. I need to say on behalf of a lot of the folks that I represent that we do not, as an organization, support the Ontario Works Act, but I think there's going to be enough people here talking to you about that. We're going to focus on the employment supports program.

Ontario Council of Alternative Businesses is an organization that has been in existence for approximately four years. We represent a number of community businesses that are owned and operated by other crazy people like myself, psychiatric survivors. There will be someone speaking to you later tonight from A-WAY Express Courier Service. We have businesses right across the province that employ and are driven by psychiatric survivors that have absolutely no involvement by the vocational rehabilitation system. In fact, we exist and our businesses exist largely because of an impatience and a frustration with the lack of employment opportunities that were provided to my community through these organizations. We believe that the voc rehab system fundamentally supports and employs professional service providers and leads to very few jobs for our community.

It's important to understand that once you have a psychiatric label, once you're deemed a schizophrenic or a manic-depressive or a borderline personality disorder, very few people think you can or will ever work. Very few people think you have anything left to offer the community. It's one of the few medical labels that you can

have that just about destroys your life and makes your identity strictly that illness or that perceived illness or disease.

I was in Thunder Bay last week. There were 18 consumer-survivors in the room, and I asked how many of them had been through the employment support program's voc rehab system. Every person put up their hand. I asked again, "How many of you ended up with a job at the end of your involvement in this particular program?" There were no hands raised. This was a typical scenario in my community.

The Ontario council believes that everybody has skills, everyone wants to work, everyone can work. The work should be real and we should pay people appropriately for their work.

The council is right now, in the city of Toronto, developing three new initiatives. One of them includes a 70-seat restaurant on Queen Street West called the Raging Spoon Café. We have also developed a new cleaning business, New Look Cleaning. The businesses across the province at present employ about 500 people who have been deemed permanently unemployable, people who have been written off. We understand that we are not even considered part of the labour force. When you hear the unemployment stats in the province of Ontario or nationally, they don't include our community. Through our businesses, through our delivering of goods and services, we have demonstrated that not only can we produce, not only can we work, we can also build our community through the businesses we develop. We also run our businesses and manage them.

Voc rehab system, as it stands today, is a system that has basically told my community what we can't do. It has not encouraged us to go out and do things for ourselves. Basically, the assessments and the counselling have been ways through which our community has been kept down. Many psychiatric survivors can attest that they've been told not to go to school, told not to pursue work, that all this may be too stressful, that they need to focus on taking their medication, getting their counselling or whatever other services, but not to ever dream about working.

We recently have been through an evaluation process with the Ontario Ministry of Health, and it has been deemed that for the workers in our businesses, not only is the rate of rehospitalization reduced by one third, but when people are productive and are parts of their community, they are released 40% sooner from hospital. If this government is merely interested in fiscal issues, that's one that I suggest should be paid attention to.

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The voc rehab system that we have today treats people like they're ill; it doesn't treat people like they have something to offer. It doesn't treat people like they should take a risk. Our businesses have demonstrated clearly that not only can people work, but that people will take risks and people become healthier through working. I guess having a label as mentally ill is very different in many ways from having any other kind of disability label. We're often invisible. We often smell funny; we look funny. We're often overmedicated.

We don't believe a whole lot in the notion of integration. You can't build something that's going to accommodate someone who's been deemed crazy. Unfortunately the stigma that goes along with that label makes it virtually impossible for people to get into mainstream employment, not that there is much mainstream employment any more. But it makes it virtually impossible for us to get work, to maintain work and to secure a job.

Personally, when I was in the voc rehab system, I was told I was setting standards too high for myself; that I couldn't stand the stress; not to pursue an education; not to even care for my daughter — I had a child at the time. Had I listened — thank God I'm a person who can't hear "no" — I wouldn't be where I am today. I've been very involved in community economic development for a number of years, and I'm very proud of the work our folks are doing. We have two cleaning companies in town, and not one cleaner makes less than \$10 an hour. Their work is recognized and it's well paid for. We are also aware of affirmative businesses or other types of sheltered workshops that pay people anywhere from \$1.30 an hour to \$15 a day for an eight- to nine-hour day; work that is not set up in a way that supports the people who work there.

We are really happy that the employment support system is going to be revamped. People go to voc rehab because they want a job; people don't go to voc rehab because they need to be assessed for what they can't do or because they need counselling. If you get people jobs, they don't need the counselling and they don't need the services. They've got money in their pocket and they've got the dignity that goes along with that. Even crazy people benefit from employment.

A number of people have started work in our businesses. Recently a woman started work in our businesses who was living in a shelter here in the city of Toronto. She participated in the development of that business and now has a full-time job in that particular business; she has been working for a couple of months and has housing. We have other people who have come to us from the street, people with what is deemed dual diagnosis, who are now working, having management positions within our companies. We believe in a self-help approach to employment. We believe that our community is developed once we start to see one another performing, contributing to society, paying taxes etc.

In terms of the employment support program that's proposed, we believe we need to have all the stakeholders at the table. We need to have representation of people with disabilities who are going to implement or develop the employment support program. We hope the employment support program looks at job creation strategies, ones that develop real jobs, not just numbers of people who have gone through. I think the voc rehab system can tell you reams and reams of numbers of people who've been through different and various employment support programs. What you'll find, I'm confident, is that people go from one program to another program. It seems like having a disability often is keeping a whole industry employed, not us, supposedly a system that's set up to get us jobs.

We can say and our way can say that we have 500 people deemed permanently unemployable working in the province of Ontario. We don't want a rehabilitation program. We believe that having an illness does not necessarily imply that you need to be rehabilitated; it means you need to be accommodated. We want to ensure, and we hope this committee will consider, in terms of the implementation of the employment support program, that people with disabilities' needs are met. Our way of ensuring that is having representation at the table.

We hear every day from our workers the fear that they carry about working, the fear they have that their drug benefits will be gone, the fear they have that "Maybe we have a cyclical problem here, and if I work for nine months and I go down again, does that mean I'm going to have to beg and borrow or do whatever to try and get back on a support program? What happens to the medications I require? If I work, I can't afford to pay for them." These are issues that are really critical and they're often barriers to people participating more in the workforce.

Right now, the council has been given support to develop regional councils across the province. We're looking at taking our model of employment, job creation, across the province to other communities of psychiatric survivors. Last week I'm sure we all heard in the news about the man who shot his doctor and his landlord as a result of being denied disability pension and what an impact that has. Our concern about Ontario Works is that there will be many people with disabilities who may be denied benefits.

It is mentioned in your legislation that you are going to have local service coordinators. I would implore that a healthy percentage, if not 100%, of these coordinators who are coordinating employment supports for disabled folks come from the disability community. I think it's widely understood that people with disabilities are best understood by others with disabilities, as well as their needs.

We're right now starting a business development in Sudbury. It will be the first time that we've participated in a business development with a range of people with a range of disabilities. We are going to have our first cross-disability business happening in Sudbury, Ontario. We're very excited about that.

I have brought you tonight an abridged version, because of where we've been, of The Business Behind the Business of Psychiatric Survivor Economic Development. I believe psychiatric survivors make up a very large percentage of people on disability pensions. This is an abridged version you have that I find really boring, but because Caledon printed it, it's more legitimate I suppose. If any of you are interested, feel free to call and we'll send you the longer version.

A-WAY Express is here tonight, and I encourage you to read their most recent newsletter.

We have a store in downtown Toronto that retails not only products made by psychiatric survivors but by people facing long-term poverty. It's called Presents of Mind; it's on Queen Street West. I encourage you to come and bring your wallets to our store.

I am very pleased that this government is looking at the vocational rehabilitation system. I am very pleased that you are going to be looking at more appropriate employment support. However, there's not enough information here to make me feel really comfortable about the implementation of those supports. We have at least 1,000 people waiting to work at all of our businesses. People want to work; people don't want to be dependent on government. That includes crazy people.

The Chair: You've used up all your time. Thank you for sharing your story with us.

INCOME MAINTENANCE GROUP

The Chair: I call Income Maintenance Group, Mr Scott Seiler. Welcome. I note you have Ms Denise Feltham with you and Harry Beatty, who's well known to our committees. You have 15 minutes. You've been here all evening, so you know the drill.

Ms Denise Feltham: I am Denise Feltham, acting chairperson for the Income Maintenance Group, which is comprised of consumers and service workers who address income support issues for people with disabilities.

As an unemployed, invisibly disabled person on FBA, I would like to present the advantages and dangers of the proposed Social Assistance Reform Act from a recipient's perspective. Depending on regulations not yet developed, some components of OWA and ODSPA will improve the quality of life and provide more opportunities for people receiving social assistance.

Provision of dental and vision care coverage for all children reflects acknowledgement of necessary conditions for child development and allowance for preventive care, which will ultimately save money. Provision of employment supports to help disabled people overcome employment barriers reflects acknowledgement of this population's special accommodation needs. Rapid reinstatement of benefits for disabled people who attempt and lose jobs will reduce the anxiety of unemployed people who attempt to work. Removal of the 25% co-payment for the assistive devices program will reduce the financial inaccessibility of these devices. The increased limit of liquid assets and personal injury awards, the protection of life insurance policies from liquid asset status, and the increased allowance of financial aid from family and significant others provide the recipient more freedom to secure income for present and future survival.

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However, the definition of disability excludes all but the most severely incapacitated people. It ignores the complex interplay among various medical, psychological, social and environmental factors that render an individual unable to work. The Ontario Disability Support Plan Act does not take into consideration those who face discrimination, unrealistic expectations and rejection from demanding employers in a competitive job market. The severe definition of "disability," requiring substantially restrictive functioning in all areas of personal care, community involvement and employment, puts those

previously classified as permanently unemployable under the Family Benefits Act at risk of being disqualified. If they are grandfathered by the new system, they may be subject to review and retesting, determined again by regulations not yet developed. The determination of a recipient's disability status by a person who is appointed by the director undermines assessment by professionals directly involved and reflects a conflict of interest.

The concept of workfare is a demeaning and punitive one that assigns responsibility of a jobless recovery to victims of an economically unstable environment. Although individuals who suffer from disabilities are exempt from workfare, the restrictive definition of "disability," combined with the more flexible eligibility criteria for employment supports, puts many people in a double-bind position of being too disabled to work but not disabled enough for income support. Furthermore, recipients who are assigned to workfare have no employee status or rights. This creates an opportunity for potential employers to exploit social assistance recipients through the provision of free labour.

Assigning the administration of OWA and ODSPA to municipally based local service coordinators, who will be hired competitively for their ability to secure employment, fosters an environment conducive to privatization of rehabilitation services. Accordingly, only those who can afford it will have access to needed services.

Enforcement and fraud prevention measures — such as finger scanning; information-sharing among municipal, provincial, federal and international governments; fraud control units; and eligibility review officers, who may be granted search warrants — criminalize the recipient and create a police state in which one's legitimacy is challenged and one's privacy is violated. Compared to corporate and white-collar crime, welfare fraud is low, yet the benefits provided by general welfare and family benefits set the recipient's income below the poverty level, making it virtually impossible to survive.

Benefits remain at a fixed level while the costs of living such as rent, food and transportation rise every year. For those who need assistive devices for themselves or their children, financial survival is further curtailed, because although the 75% copayment for ADP will be removed, restrictions in the forms of caps and block payments often reduce the allowance to far less than 25% of the item's cost. Handicapped children's benefits program allowances are restricted to extraordinary costs for children with severe disabilities.

Ostensibly, the increased flexibility towards financial support of the recipient from family and significant others can be interpreted as a progressive move. However, I am concerned that it may indicate instead a shift from societal to familial responsibility for the poor and disabled people in Ontario.

In effect, while some aspects of the Social Assistance Reform Act may be improved if regulations permit, the exclusionary selection process, the survival-of-the-fittest approach and the 18th-century attitude of the "deserving

poor" would create an environment of social chaos manifested by violence and despair.

Applause.

The Chair: Ladies and gentlemen, when you do that, you cut into their time. They still have six minutes. I'd like to start the questioning with the government caucus.

Mrs Pupatello: Chair, they may have other comments.

The Chair: My apologies.

Mr Scott Seiler: Actually, I would like to briefly talk a little bit about the definition of "disability." In all the so-called consultations we've had with this government — they weren't really consultations, but were more briefing sessions than consultations — we've been advocating the use of a statement of principles that we put out on the types of things that we would like to see a definition cover.

We have to take a good hard look at the current definition being used in this new piece of legislation. I call it the ODSPA, for the disability program. The definition basically looks at people with very significant disabilities in areas of activities of daily living, activities for work and activities in the community. Each of these particular parts of the definition is joined with an "and." The minister has alluded to the fact today that they will get rid of the "and" and replace it with an "or," but I still have tremendous problems with the severe nature of this definition of disability and the likelihood that it will be used to severely curtail who is allowed to be on social assistance as a disabled person.

I suspect that we're going to see very large numbers of people with disabilities disallowed under the new system and possibly even from the current system. We are also seeing many people being given notices that they are not even going to be allowed to go on the new system because they're not going to be retained on FBA until the new system is created. That is another huge problem we're seeing, and that's reflected by the legal clinics and other groups that are beginning to see large numbers of disabled people kicked off the FBA system now, before the new legislation has gone through.

We also have some issues around things like the grandfathering. In most legislation, when grandfathering is put in legislation, it's put in the body of the legislation. Grandfathering is not an appropriate thing to be putting in regulation, because regulation can be too easily changed. It's very important that if people are grandfathered, those grandfathering stipulations are put right in the body of the legislation so no one can go back and tamper with them later on or in any way change them.

We also have some very strong problems around the entire area of the employment supports. It looks to us like the definition of disability in the employment supports will only include those with very significant disabilities who can work competitively. That's a very tiny group of people. We're very afraid that people with mild and moderate disabilities will not get properly served by the employment programs. We're also very concerned that people who need income supports and are not on the ODSPA will not get access to income support because they will no longer have training allowances available to them, like they do now on the current VRS program.

VRS is not a perfect program. In fact, I've been fighting for changes for VRS for many years. At the same time, there are some things that are valuable with VRS that must be retained.

I'd like to turn some of the more legal issues over to Harry.

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Mr Harry Beatty: Very briefly, while we're primarily concerned with the ODSPA in one sense, we're also very concerned with Ontario Works issues, because it appears to us that there is certainly the possibility, under this legislation, to have people with significant disabilities nevertheless found ineligible. Besides the points already made, there's also the fact that the government guidelines, as has been mentioned by earlier presenters, will have effectively the force of law; and whatever guidelines for disability assessment are developed by the ministry and its advisers will not be appealable in the light of individual circumstances if the guidelines are drafted in a certain way.

We are concerned as well, in particular from a disability perspective, about the parents in both one- and two-parent families who will be on Ontario Works and who have already received the 21% rate cut. It's difficult to be a single parent or a parent in a two-parent family, and it's even harder where there is a very significant disability of one or more of the youngsters. We've seen some very difficult cases involving especially sole-support moms who are looking after kids by themselves.

From a legal point of view, one of the major concerns in the new legislation is the restriction on appeal rights. The more flexible approach to employment supports may make some sense, but we're very concerned that the appeal is taken away. Right now, there is an appeal under VRS. If there's a privatization to smaller providers, non-profit as well as for-profit, and the appeal and scrutiny by the tribunal is taken away as well, that seems to be a weakness.

We also share the concerns of others about the lack of appeal in the informal trusteeship cases and in the direct payment to service providers, particularly if it's a service provider who is also a debtor, like the landlord. It's one thing to say in some cases that perhaps that makes sense, but to effectively put in place that there is no recourse, to not allow a person who may have good reason to ask for control of their own finances back to even make their case and go to a tribunal and argue it, seems to us to be draconian. Those are some of our main concerns.

The Chair: Thank you very much. You've used up all your time. On behalf of the committee I want to thank you for being here.

ETHNO RACIAL PEOPLE WITH DISABILITIES COALITION OF ONTARIO

The Chair: I call Ethno Racial People with Disabilities Coalition of Ontario, J.S. David. Welcome to the committee, Mr David. We're happy to have you here.

Mr Jason David: Thank you. First, to introduce myself, I'm Jason David, the project coordinator of ERDCO. Mr Paul Scotland is the chair of ERDCO. We have also a few members who have come to share this moment.

Honourable Chair and members, about ERDCO: Ethno Racial People with Disabilities Coalition of Ontario, known and referred to as ERDCO, is a cross-disability provincial organization promoting awareness of culture and disability. ERDCO is committed to promoting respect for ethno racial people with disabilities of all ages, culture, sex, language and religion. We are guided by the principles of anti-racism and accessibility.

ERDCO has a membership of over 250 in Metro Toronto and is reaching out to ethno racial people with disabilities throughout Ontario. Our membership reflects the multicultural makeup of Canadian society in every way. Our members come from all walks of life, with various and different degrees of disabilities, with various abilities and educational attainments, having different religious beliefs and cultures, speaking different languages, and having different shades of skin colour. Among them are Canadians, landed immigrants, persons on minister's permit and refugee claimants. We have members who are employed, unemployed and students.

We are all members of this society, living in this society. Though different labels may be pasted on us, we do expect this society to treat us with dignity and respect and provide us with the basic freedom and opportunity for the pursuit of happiness which we claim as our basic human right and the collective responsibility of the society.

ERDCO is also an active member of the Ontario Cross-Disability Organization Steering Committee. We are deeply concerned about how the Bill 142 would impact upon the whole disability community of Ontario.

Our concerns: Recent research findings indicate that our members feel excluded and discriminated against in many different ways. In this context, it is no surprise that we are perturbed about many provisions of Bill 142 that lack clarification, detail and definitiveness. We sincerely thank this committee for this opportunity to voice our concerns today.

Among many concerns, we presently wish to talk about the following: (1) purpose of the act as stated in schedule A; (2) definition of "disability," as stated in schedule B; (3) individual right of choice of employment or activity; (4) the decision-making powers of the delivery agents and the right of appeal; (5) continued eligibility of "prescribed class of persons" as provided for in schedule D, transitional provisions.

Schedule A, the purpose of the act: "recognizes individual responsibility and promotes self-reliance." This statement fails to recognize the collective responsibility of the society, represented by the government, to create the environment necessary to promote self-reliance. The purpose, as declared, seems to place all the blame on the person for his or her condition and assumes that such environment is already in place. This negatively reflects

the social status of any individual having to receive assistance to that of a misfit in society.

"Self-reliance through employment." The employment aspect, further reiterated in 1(b), views an individual in the narrow parameters of dollars and cents and does not recognize the individual's contribution to the total wellbeing of the society that is not measured in dollars and cents. For instance, a person with a disability who maintains a home for other members of the family unit not only needs income support, but also some other supports that would enable that person to carry out the necessary activities in the home. Would that person be denied such support just because that activity does not lead to direct employment with a taxable income?

1(b) states "provides temporary financial assistance." Self-reliance cannot be promoted only through financial assistance. A person may need other supports and guidance in achieving self-reliance.

We would like to see a broader purpose in a program that (a) recognizes the collective responsibility of the society to create such environments to promote the achievement of the maximum potential of an individual as a contributing member of the society, and (b) provides such a support system to those in need to enable them to become and stay a contributing member of the society.

Schedule B, Ontario Disability Support Program Act, 1997. Definition of disability: I take two words there, "substantial" and "impairment." The impact of any impairment is complex. Impairment cannot always be measured with known scientific parameters to determine the levels of functioning of a person with a disability. The same measurement of an impairment may impact differently on different persons. This brings us to the question of who determines that the impairment is "substantial."

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Clause 4(1)(c): "the impairment and its likely duration and the restriction in the person's activities of daily living have been verified by a person with the prescribed qualifications."

Subsection 4(3): "A determination under this section shall be made by a person appointed by the director." The tools of determination as provided in clause 4(1)(c) cannot constitute sufficient and conclusive information for the person appointed by the director to make his or her determination on substantial or otherwise of the impairment. "Person" needs to be replaced with "team of persons."

Further, we wish to submit that the delivery agent may take such restrictive view of impairments and their impact that many who need assistance may be made ineligible. Thus, it becomes necessary to give more weight to the information given by the applicant for eligibility as a person with a disability with regard to determining the level of functioning and the impact of the impairment.

Such a restrictive view of eligibility criteria by the delivery agents was experienced by those requiring Wheel-Trans. We believe such a restrictive view was the result of funding constraints on the Toronto transit system,

and thus the needs of the disabled became less of a priority compared to saving dollars and cents.

We now refer back to our comments on the purpose of the Ontario Works Act, 1997, that seems to focus on dollars and cents rather than persons. We have reasonable grounds to believe that the delivery agents would take such a restrictive view, resulting in many persons with disability being adversely affected by the Ontario Works Act, 1997, rather than benefiting under the Ontario Disability Support Program Act, 1997.

Subsection 4(2), exception: This section seems to impose a moralistic view of the cause of impairment. If a person's impairment results from an accident owing to that person's drunk driving, would that person be denied eligibility to the Ontario disability support program? We suggest that it could, and society would in effect be disowning that person and would be seen as imposing lifelong suffering on that person. The provisions should look at the state of being of a person rather than the cause of the impairment. Therefore, we suggest that subsection 4(2) be removed.

Schedule A, part I, subsection 7(4): The implications of the provisions in clauses 9(a) to (d) are not very clear. The words "accept and undertake" in clause (c) and "accept and maintain" in (d) do not seem to provide options and choices of areas of activity or type of employment. Would there be sensitivity to different religious beliefs and different cultural practices? For instance, would a pure vegetarian be asked to work in a meat shop? Would a person whose religious beliefs state that the consumption of alcohol is a sin be asked to work in a liquor shop or brewery? If that person refuses to accept training in such skills or refuse to accept such a job in such a place, would that person be denied an income and/or employment support?

Appeals denied, schedule A, part II: A decision with respect to employment assistance cannot be appealed. "The tribunal shall refuse to hear an appeal if it determines the appeal to be frivolous or vexatious." Section 36 says, "may appeal the tribunal's decision to the Divisional Court on a question of law." This leaves a person with no recourse to appeal on the merits of the decision of the delivery agent on a question of employment assistance, and a decision of the tribunal on the question of his or her right to be heard on the merits.

Schedule D, transitional provisions: If a person who is a member of a prescribed class earned employment income that is more than his or her budgetary needs for a continuous period of more than 12 months, he or she becomes ineligible to continue as a member of the prescribed class.

Most jobs for people with disabilities are contract jobs. The above provision in subsection 6(3) may be a disincentive for persons with disabilities to accept contracts for more than 12 months, as it would make them ineligible to receive the higher benefits in the Family Benefits Act if that person becomes unemployed.

We believe this is an important piece of legislation that impacts on a significant section of our society. We certainly do not claim to have covered all the grounds that

need to be covered with regard to the provisions of Bill 142. Thus, we take this opportunity to appeal to the government that more time be allocated to hear the voices of other interested persons with regard to Bill 142.

We thank you once again for this opportunity and your patient hearing.

The Chair: Thank you very much, Mr David, to you and your companions for being here this evening. We've just about exhausted your time. Thank you very much.

A-WAY EXPRESS COURIER

The Chair: I call A-WAY Express Courier, Laurie Hall. Ms Hall, welcome to our committee.

Ms Laurie Hall: Thank you very much to the committee today for giving me a chance to speak to this bill.

My name is Laurie Hall and I'm a psychiatric survivor. I'm also the executive director of A-WAY Express. A-WAY's a non-profit courier business funded in part by the Ministry of Health. For 10 years now, we have operated a successful courier business run by and for people who have major barriers to working in traditional employment settings. We provide competitive, efficient courier service to more than 1,000 customers throughout Metro Toronto. This year, we're celebrating 10 years of creating employment for people who've been through the mental health system. A-WAY currently employs 60 people, all of whom have been labelled with a psychiatric diagnosis and most of whom, at one time or another, have been deemed "permanently unemployable," myself included.

I'm here today to talk specifically about schedule B, the Ontario Disability Support Program Act. First of all, I'm very pleased to see that the necessity for a medical doctor to be forced to label someone "permanently unemployable" is gone. This has been a major barrier in the past for us having to be deemed permanently unemployable just to get the income support necessary to survive with a disability. Having a mental health problem should not force anyone to ignore or deny that they have skills and abilities.

I must tell you that currently there's a lot of anxiety in the community about how people will be assessed for this new disability pension. I'm pleased to hear assurances that there will be no new assessments, that people currently on FBA will be transferred over to the new program. This will be a huge relief to our community. However, as there is not a lot of detail about how things will come to be under this new legislation, I'd like to spend my time tonight on telling you what has not worked for us in the past.

As I said before, all of us at A-WAY have been labelled by the mental health system and most of us at one time or another have had to be labelled "permanently unemployable," yet we're working. Why is that? Because working helps us. It builds our self-esteem. It helps us feel better about ourselves. It gives us extra income; for some of us very little extra income, due to the allowable earnings limits. But those of us who have gone off FBA and are earning a living on our own feel we wouldn't have

been able to do it without the support of A-WAY or other businesses like A-WAY.

Why does A-WAY work? Because we assume, or we know, that everyone has skills, that everyone can work. We know that when the work is real, that when the pay is real and that when people like ourselves, survivors, are in charge, we're most likely to benefit from it.

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And what is real? How about what's not real? What's not real are sheltered workshops. Stuffing plastic spoons in bags for 10 cents an hour is not real work. That's not real pay either.

Vocational rehabilitation programs that assess you to death, then counsel you, then put you through life skills training and other training programs and shove you out the door after six months, with no real job, are not real. We don't benefit from these programs, we do not get jobs, we can't make a living and it does nothing for our self-esteem. We're tired of the revolving door. What's left is to take your meds — sometimes more helps you forget how hopeless your life seems — or hang out at the coffee shop, even if you can't afford a coffee.

But enter survivor businesses. People are given the opportunity to work. They're trained on the job by their peers, not by a professional making 50 grand a year to "manage your case." Survivors are paid market value for their work. Employees have a say in how the business is run. The couriers learn how to market the business. People learn how to read budgets, how to increase sales and keep the company competitive. They learn accounting skills, how to use computers and how to train others to do the same. People have a chance to move up in the business by learning on the job, and they take a paycheque to the bank every two weeks, a real paycheque.

I began at A-WAY five years ago as a courier part-time on FBA. My doctor told me to quit my job previous to that and stay home because I was incapable of working. After two years at home, when I thought I'd die of boredom, I started at A-WAY on two afternoons. That was five years ago, and I'm making a full-time salary off FBA and helping others to do the same.

Yes, many of our people still are on FBA. The cost of their medications, the cyclical nature of people's health problems, the cost of living with a disability, makes this a necessity. But what that does not mean is that they will not, or should not, be able to benefit from the positive benefits of being employed.

Survivor businesses work. Ask the 400-plus survivors currently employed throughout the province. Diana said 500; I guess she employed another 100 at work. These are the survivors working. Ask their doctors or their "case managers" how their patients have benefited. Ask the businesses, organizations and individuals who use our courier service or any of the services or products from any of the businesses; they'll tell you.

The businesses cost less for the Ministry of Health to support than other community or certainly institutional programs, and they're proven to work. It's what survivors want. A recent survey of survivors in the province asked them what they considered to be their basic needs. They

told us the answer was a home, a job and a friend, and all the rest takes care of itself. We want to provide jobs that will help them succeed.

Sometimes people ask us, "But if you're real businesses, why aren't you self-sufficient?" Well, guess what? Supports cost money. It costs money to support people in employment. It costs money to ensure that the jobs are flexible and support people in doing the best they can do. However, it costs a lot less money for us to provide real jobs with real pay to psych survivors than it does to pay for voc rehab to provide real jobs with very real pay to professionals and no jobs for us.

What are the current barriers under the current system? The current level of FBA is barely enough to live on. It's much better than welfare. Housing is getting harder to find, and with no new non-profit housing being built, waiting lists in general are an average of three years long. In Toronto, private sector housing starts at about \$500 for a room, and that's if you're lucky. People with disabilities often have special needs. No extra expenses are covered currently under FBA.

Several years ago, after major surgery resulting from a failed suicide attempt, I was put on a very restricted diet. I couldn't afford it. FBA says it provides money for special diets, but my worker said: "Oh, it's included. You don't get any extra money." Why would they include the cost of a special diet for everyone?

Many drugs aren't covered by the drug card. If you're sensitive to certain antibiotics or certain drugs, your drug card only covers the basic, generic drug. If there's another brand that's coated so that you don't throw up, too bad. You have to throw up, I guess, if you're on FBA. Many drugs are not covered, and it changes all the time. Usually it's the more expensive drugs, say with less side-effects. So too bad; I guess you have to get used to the side-effects if you're on FBA.

Another barrier: You can't afford the necessities for working. It was only after four years of negotiation with the Ministry of Health that we can now provide bus passes to our couriers. They need them to do their job, and they cost \$83 a month. They can only make \$160 a month before losing any benefit from their FBA cheques. You can get a bus token to go to the doctor, but you can't get a bus token to go to work. Our couriers work outside, winter and summer. They need warm winter coats, warm boots, hats in the summer to protect from sunburn, raincoats in the spring and fall to keep dry. They can't afford these things. Where are the supports to help them buy the basics they need to remain employed?

The biggest barrier that our people find to working is the allowable earnings limit. On FBA, you may only earn \$160 a month before 75% of every dollar you make comes off your cheque at the end of the month. If you're making \$10 an hour, you've reached your limit after only 16 hours. After that, your net gain is \$2.50 per hour. There's no incentive to work past \$160. In fact, it's a disincentive. People are afraid to jeopardize their benefits. They would lose their drug card, and the cost of medications is very high. If they lose their benefits and then get ill, it could

take up to a year to get back on FBA under the current system. What do people do in the meantime?

If people could earn, say, \$400 before they had deductions at the end of the month, they could work 40 hours in a month. This is an incentive to work. This allows people to get ahead by working more hours. Would you work extra hours for a quarter of the pay? If people are going to be able to make the leap to gainful employment, they need to have the opportunity to try, to work more hours without being penalized. The closer people can get to full-time with the supports in place, the more likely they will be to take the chance. Please consider raising the allowable earnings limit to a much more reasonable, fair amount.

The current Minister of Community and Social Services said: "The proposed program already assumes that people with disabilities can compete on the basis of skills. Our intent is to make sure they get a chance to use their skills."

Survivors want to work. Our businesses provide these opportunities. Nothing else yet has worked. Let us provide more of these jobs and supports. We would like to work closely with this government to help set up more businesses, to work towards our goal of cross-disability businesses, like the one we're working on in Sudbury. We are disabled, in some people's eyes, but we're still people. We need to work; we have a right to work. We know what supports work for us and we're willing to help create more of them. We need the support of this government to help us do that.

Thank you very much for your time.

The Acting Chair (Mr Alex Cullen): Thank you very much. We have barely enough time for 30-second questions and 30-second answers, starting with the government side.

Mr Carroll: Thank you very much. We do appreciate your coming forward today. I'm not going to ask you a question, because there isn't meaningful time to do that, but I am going to congratulate you and your company for all the great things you've done. We too would like to work with you and your folks to make sure we get this whole program right. Thanks for coming forward, and congratulations on the good work you do.

Ms Hall: Thank you.

Mrs Pupatello: Thanks for your comments today. I'm assuming that as long as you qualify under the new definition of disabled, you can see that some of the changes are appropriate if you get over the bar and are classified, if you will, as disabled enough. Have you noted any concerns about that definition for those who are simply not going to qualify? Therefore, behind door number 1 there's nothing, but if you pick door number 2 it's manna from heaven.

Ms Hall: There's a lot of confusion and certainly a lot of concern in the community. I think in general the rumour that's been going around is that people assume if they're currently on FBA, they will be transferred to the new program, no reassessments, no other questions.

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We have many people working for us who are on welfare and are certainly disabled. The problem in the past has been the "permanently unemployable" label. Like the position that the doctor who was killed last week found himself in, it's very difficult for people to make that decision. If you call someone "permanently unemployable," that will allow them to go on FBA. If you're not prepared to make that judgement, they have to stay on welfare, and that's a big bind for many people. We have many people whose workers or doctors have decided they cannot call them "permanently unemployable" but they are certainly disabled. Those are the people I'm concerned about. I want to make sure we don't repeat that mistake and make the definition of disability so narrow that people who desperately need it can't get on.

Ms Lankin: Thank you very much. Before I ask you a question, I just want to make a comment. For any of the MPPs who have constituency offices in the Metro area, one of the new businesses that has been established is a cleaning business. We use it in my constituency office. It's a great business. You should do it too.

Ms Hall: New Look Cleaning. We also provide courier services to many of the offices in town.

Ms Lankin: I wanted to ask you about the definition and the barriers, some of the things you were just talking about. It seems to me that if the definition is too restrictive, many people who could actually benefit from employment supports to get into competitive employment situations will be cut out. On the other hand, some of the vocational rehab services — and I recognize the problems your community has had with them. Some people who require those additional services won't actually have access to them any more because they'll be out in this decentralized system. I wonder if you have any comments on that and what it will mean in terms of coordination of delivery of employment support services.

The Acting Chair: You have 30 seconds.

Ms Hall: Okay, 30 seconds. My direct experience is how voc rehab has or hasn't worked with the survivor community, because that's my own personal experience and the experience of people I speak with on a regular basis. I would assume there needs to be a full range of employment supports, and what may work for one group of disabled people may not work for another group. I would hope this government will work very closely with the disabled groups in tailoring services and supports that fit with the groups of people they're there to support. It hasn't worked for us; certain types may have worked very well for other disabled groups. We really need to start tailoring the services that are provided.

The Acting Chair: Thank you very much for your presentation.

OPSEU VOCATIONAL REHABILITATION SERVICES DIVISION

The Acting Chair: I'd now like to call upon the vocational rehabilitation division committee of OPSEU,

Peter Dirks, co-chair, accompanied by Paul Agueci and Judy Besse.

Mr Kormos: On a point of order, Mr Chair: If I were to call for a quorum right now, there wouldn't be one. I think it's imperative that the Conservative members be here to listen to the submissions being made to them. I'm not calling for a quorum, because a whole lot of people have waited a long time to make their submissions. But damn it, surely with their numbers at Queen's Park the Tories can maintain a quorum here and hear the submissions being made to them. Now, once already I've sent a message up to the Tory whip's office to tell them to get people down here. It's not really my job, as you can well imagine.

The Acting Chair: Thank you for that non-point of order. I think you've made your point. Perhaps we can hear from the delegation.

Ms Judy Besse: Peter Dirks, the co-chair of the VRS division, isn't here today. My name is Judy Besse.

Mr Paul Agueci: My name is Paul Agueci. I'm a vice-chair of the VRS division.

Ms Besse: Thank you for giving the vocational rehabilitation services division of the Ontario Public Service Employees Union the opportunity to speak before this committee. We're the people who have been coordinating the delivery of vocational services to people with disabilities under the VRS Act, one of the acts being repealed by Bill 142.

I will be highlighting some of the main problems we see only in the employment supports section, that's part III of the ODSP Act, and listing some recommendations. It is very frustrating that, as broadly acknowledged experts in the field of providing vocational services for people with disabilities, we have not been allowed to participate in consultation with the Ministry of Community and Social Services around part III of the ODSP Act before now and that we do not have the time in this presentation to explain the many other serious difficulties we have with the act beyond the short list we have for you tonight.

Issue 1: There is no clear statement of mandate or commitment to govern the provision of employment supports in the ODSP Act. The first clause, section 32.1 of the employment supports section, states that "The prescribed employment supports may be provided." Absolutely unknown supports may or may not be provided. Is the government committed to providing employment supports to people with disabilities or not?

Issue 2: We fear that the government intends to prescribe in the regulations a limited menu of services rather than mandating whatever services are necessary to help people with disabilities reach their employment goals. As vocational rehabilitation professionals, we know that flexibility and creativity in plugging in a variety of services based on any one individual's very special and often unique needs is absolutely key in facilitating success. If the government prescribes, for example, a list of six service types that can be provided and no others, this guarantees failure for a substantial proportion of people with disabilities who are working towards employment.

Issue 3: There is absolutely no appeal available with regard to any decision taken under the employment supports section of the ODSP Act including, for example, decisions around eligibility or the denial of service.

Issue 4: There is no language that ensures that service provision and the determination of eligibility will be consistent across Ontario. The government plans to tender the delivery of employment services for people with disabilities to service coordinators in the private sector in the different geographic areas of the province. There is no provision in this legislation that the same services or levels of service will be provided in different areas of the province.

Issue 5: There is no system of accountability built into this legislation. There are no provisions whatsoever for program evaluation or results assessment in this legislation. On the face of it, the fact that the government is handing over delivery of employment supports for people with disabilities to local organizations in the private sector indicates it will be very difficult to hold the government accountable for the provision of effective service.

Issue 6: The legislation mandates that employment supports are only to be provided to people with disabilities who are interested in and capable of competitive employment. Not only this, but employment services will not be provided to people until they present the local service coordinators with a competitive employment plan. What happens to the vast majority of at least the type of people with disabilities we have seen through vocational rehabilitation services — about 1,000 people at any one time in Toronto, for example — who come for help not knowing if they will be able to enter or re-enter the labour market and certainly not knowing what their aptitudes, skills, career goals and training needs are?

The way the legislation is written, these people will not be eligible for service. Will people be cut off or deemed ineligible if they are only capable of or interested in volunteer, perhaps sheltered or supportive employment or in working as a homemaker? The incentive for the local service providers to provide service to the most able and self-directed of people with disabilities is written right into this legislation. "Cream the best and forget the rest."

Issue 7: There is no case management service mandated by this legislation. Currently one counsellor or facilitator follows the individual with a disability through the whole process of determining a job goal, getting training and finding employment, that is, under the VRS Act. We do not know yet what services or service delivery model the government will prescribe in the regulations, but we fear that individuals will be left to pick and choose from a menu of services and a variety of employment programs without the benefit of guidance and support. Some people with disabilities are quite self-directed, excellent advocates for themselves and good problem-solvers, but many people with disabilities who might otherwise achieve employment will fall through the cracks unless a holistic case management system is at least available.

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Issue 8: The process leading up to writing the employment supports section of the ODSP Act and the selling of this section since the legislation was tabled have been manipulative and dishonest. Consumers have not been widely consulted, despite what the ministry claims. Second, the people who currently deliver employment services for people with disabilities under the VRS Act were determinedly excluded from consultation. The thousands of people with disabilities who currently receive service under the VRS Act were not consulted.

The government has used statistics and information in very misleading ways to try and sell this new proposal for an employment support program. The Minister of Community and Social Services should be wary of the bill of goods her advisers have sold her if she values providing a good employment supports program for people with disabilities.

Finally, contrary to what the ministry has been saying recently about the current system, vocational rehabilitation staff are not providing an ineffective, patronizing, outdated service. We ourselves have been trying to advocate for progressive reform of the VRS act for years. We are dedicated, caring, professional service providers who are very proud of the program we offer and enormously frustrated and sickened to see the government dismantling and weakening programs in this complex and demanding field without the benefit of wide-ranging advice.

Recommendations:

(1) Change the first clause of part III, ODSP act to read:

"Employment supports" — not "the prescribed employment supports" — "shall be provided," — not "may" be provided — "to a person described in subsection (2) to remove barriers to the person's employment" — not "to the person's competitive employment" — "and to assist the person in attaining his or her employment goal" — not "competitive employment goal."

(2) Do not privatize employment supports for people with disabilities. This should be a government service that ensures consistency, effectiveness and crystal-clear accountability.

(3) Allow decisions made under the employment supports section to be appealed to the Social Benefits Tribunal.

(4) Delay passing the employment supports section until the substance of what this program will look like and what actual employment services are to be offered is written into the act, or alternatively, at least written in the regulations, so that meaningful consultation and debate can take place to compare the services currently offered under the Vocational Rehabilitation Services Act with what will be offered in the new act so the best possible legislation governing this important public service will result.

(5) Build a strong evaluation component into this act, report publicly on the regular evaluations which will result, and have these results periodically reviewed by an objective third party such as the Provincial Auditor to

ensure the provision of effective employment services to people with disabilities.

The Chair: We have about a minute per caucus. We begin with the official opposition.

Ms Besse: We're not finished.

The Chair: Oh, my apologies.

Mr Agueci: I'd like to give two examples, if I could, of people I know in the system who have really valued our services. One person came to me when he was 27 years of age, after spending five years on the GWA system at the municipal level. This person was involved in a car accident by riding a motorcycle through a red light after finding out his father had been killed in a shooting, and this person subsequently drank himself to the point that he drove himself home and crashed his vehicle. As a result, he lost his driver's licence. He spent the day of his father's funeral in the hospital. He came to VRS some seven years later, when he was on social assistance and really feeling depressed and upset about his situation.

He didn't know what he wanted to do. He didn't know what he could do. He was so vocationally confused. He really used the assessment component very well. I didn't know what his physical limitations were. We had him tested at the Toronto Rehabilitation Centre for a six-week pre-vocational assessment. He did very well there. He showed he could competently work. As a result, he went into training at the alternative computer training program, which no longer exists, and is now working for a major retail company earning \$40,000 a year as a LAN, local area network, administrator. He's doing very well. So there is a success.

The other success story I'm going to give you is a person by the name of Paul Agueci, myself. I am a person with a disability. I was a person who used the service after a head injury that occurred when I was involved in a physical fight at the age of 10. I was struck with a fist in the head and spent three months in a coma. I had always wanted to be an athlete. I was running track and field, I was playing ice hockey, and I was very good at what I was doing at the time. I couldn't do those things after my accident. I suffered a left-sided hemiparesis.

What can I tell you about myself? I spent seven years rehabilitating, on and off for that period. I came to vocational rehabilitation a very confused individual, not knowing what I could do. I was offered assessment services. I took them gladly. I gladly took training services at the post-secondary level. I was granted a VRS maintenance allowance, which sustained my rental costs and my food costs for the time I was in school. As a result, you see before you a person who has a fairly good education and a good job. I would like to maintain my job for as long as I possibly can, because I really love the work I do. I think I do it with passion. I think all the counsellors at the office do it with passion. I think Judy has told it very well that we're very passionate as well. If you have questions, we invite them.

The Chair: Thank you, Mr Agueci. You have used up all your time, but let me tell you, your passion does show through. Thank you and Ms Besse for being here.

Mr Kormos: Chair, I believe we've just heard the 13th submission. Of those 13 submissions, 12 were very critical of the bill and requested significant amendments or defeat. I feel compelled, in view of the fact that there are three voting opposition members here and only three voting government members, to move the repeal of Bill 142. I suspect that would be out of order.

Mrs Papatello: I second that motion.

Mr Kormos: I say to you, Chair, the opposition members — and Ms Lankin is not a voting member of this committee; she is here sharing the committee out of her interest in the consequences of this bill — don't have to be persuaded about the serious errors, pitfalls and dangers inherent in this bill. Will the government members please ensure that they are here to listen to the submissions being made to them? Damn it, they are being paid to do it, and these people went to a whole lot of trouble, effort and expense to appeal to government members. I appeal to you to please give some direction to the government whip to have their members in this committee. We don't have to be persuaded; they do.

The Chair: Mr Kormos, that's not a point of order, as you know, but I will note for the record that we are perilously close to losing quorum. I would ask the parliamentary assistant to perhaps take back to his government's whip that presence at these committee hearings is extremely important.

ASSOCIATION FOR THE NEUROLOGICALLY DISABLED OF CANADA

The Chair: I call upon the Association for the Neurologically Disabled of Canada, Ms Kathleen Haswell. Welcome. Thank you very much for coming.

Ms Kathleen Haswell: Thank you, Madam Chairperson and members of the social development committee.

If I may, I would like to bring a human touch to these proceedings by reminding our legislative representatives that disabled Ontarians are citizens of this great province who wish to participate in all aspects of the community in which they live. Being able to participate means that disabled citizens, your constituents, need assistance with removing barriers to many areas of daily life and they need your support and help in achieving this goal.

The existing Vocational Rehabilitation Services Act mandates a one-stop approach to a wide range of services and programs that assist individuals with disabilities to overcome some of the barriers to education and employment they face because of their disabilities. These services and programs are delivered through the ministry's 12 area offices, and in 1992-93 there were 51 locations in Ontario. The locations represent an accessible venue for disabled citizens to get the help they need.

If you look at exhibit 1, I have tried to give you an overview of the services currently available to your disabled Ontarians. The historic costs are outlined in graph 1. Please remember that 50% of those costs are

shared between the provincial and federal governments. You will notice that funding has decreased at an alarming rate, a 46% decrease since 1991-92. On graph 2, you will observe that clients served have decreased only 13% since 1992-93. I would like you to observe that VRS counsellor training is very extensive and appropriate to meet the diverse needs of persons with disabilities.

On exhibit 2, the second graph, in 1992-93, 56.6% of clients' files, after training, were closed because they became competitively employed. In the second column on this page you can see the cost benefit of helping your disabled citizens acquire or maintain competitive, part-time or sheltered employment and the average expenditure to realize that goal.

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In exhibit 4, I would like to address the issue of VRS cutbacks and the detrimental effect this has on government revenues. The estimate for 1996-97 is that 10,800 disabled citizens will be served through VRS. On exhibit 4, we look at five single clients who range from no income to full-time employment income and the expenses incurred for rehabilitation.

Under Bill 142, when you transfer, as you will, many disabled Ontarians on to the welfare rolls, the costs to the municipalities and their local taxpayers will be \$1,272,000 for these five clients. However, when you invest in programs and services to help disabled Ontarians overcome barriers to education and employment and they do become employed and are allowed to participate fully in community life, the savings to the taxpayers of the province is \$1,862,000, and the savings to the municipal taxpayers would be \$902,000 for five individuals with disabilities.

When a person with a disability cannot receive the appropriate rehabilitation services to secure employment, the cost to society is enormous. Your disabled Ontarians want to become a part of the mainstream of life and want to contribute as best they can by becoming employed, but they need your help.

I do not believe that able-bodied citizens of Ontario wish you to withdraw the supports and services you have been providing to their disabled citizens as mandated by the Vocational Rehabilitation Services Act. Bill 142 will do just that. It is a mean-spirited piece of legislation that will have a significantly harmful effect on your citizens who are disabled. It proposes to divide individuals with disabilities into the haves and have-nots by creating restrictive criteria for income support. It also thrusts many disabled Ontarians on to the municipal welfare rolls, a place they do not want to be. Bill 142 will require disabled citizens to compete for competitive employment without the guarantee of help and assistance they need to fully participate in such employment.

Furthermore, it creates a statute that disallows your disabled citizens any rights of an impartial appeal process. It creates opportunities for wide abuse of disabled Ontarians. It stigmatizes them by making them submit to finger scanning in order to obtain benefits. It does not protect their personal information. This legislation will

leave them with no guarantee that they will receive the type of employment support that truly meets their individual needs.

I would like to give you some examples of what I mean.

"I am 33 years old. I sustained a head injury while playing recreational hockey. Prior to my injury I worked as an accountant in a large accounting firm. I can attend to my personal care. I do not really have substantial restrictions in my daily living, but I am having trouble holding down a job because my head injury has affected my short-term memory and I am forgetful of minor details. I also tire very easily and cannot concentrate on details.

"Under Bill 142 it has been decided that I do not meet the criteria of ODSP, 4(1). I was notified that I could appeal and a time was given, but I missed the date. Now I have been told I cannot appeal at all, ever. I am receiving GWA, \$530 a month. For the past year I have been involved with pre-vocational training, but this training is more suited to able-bodied persons and it does not address my individual needs. My worker feels that I am not benefiting from this program and has suggested I look for something else. I do not know where to go. My worker has recommended a vocational assessment that will outline my strengths and weaknesses and a psychological assessment. I went to my doctor and he does not know where I can get these assessments under OHIP. I do not have the money for assessments. There is no money for assessments under Bill 142. She has told me I cannot appeal employment supports under Bill 142. She said it was part II, 21(3). What can I do? I want to work. I know with help I could get a job, but no one will help me."

The second example:

"I am a 32-year-old woman with three children. I am a homemaker. My husband works full-time as a bus driver and earns \$55,000 a year with overtime. In 1997 I had a stroke that has left me in a wheelchair. I am just coming out of hospital and I have been told that if I apply to VRS, a homemaker is viewed as a substantial occupation and they could help me. I need modifications to my house such as a ramp, exit doors, halls widened, kitchen modifications so that I can continue to cook for and look after my three children. Even though I am disabled, I want to do as much as I can for my children, and I need help.

"There used to be a provincial program called Ontario home and renewal program for disabled persons and also a federal program, residential rehabilitation assistance program, but in the cuts both of these programs are no longer available to me. VRS is my last resort."

In Bill 142 there are no provisions for disabled homemakers and this woman would not be able to get the help she needs for her disability, to help her look after her children.

Example 3:

"I'm a learning-disabled young woman, aged 19, who was identified in school at age 12 as an exceptional student. My marks in grade 13, with all the special education help I have received, will allow me to study criminology. I want to become a correctional officer and I need a BA to enter this occupation. I live in Pembroke, Ontario. I

do not have a university within commuting distance and therefore I will have to live away from home until I am trained in this profession. I have applied for OSAP and they have approved a \$5,000 OSAP loan. Because of my learning disability I will need individualized tutoring in the core subjects, help with organizational skills and time management and a computer to help me with my written assignments. I cannot afford to pay for this myself. I cannot go to university and train for competitive employment because I am disabled.

"I do not meet the criteria of Bill 142, 4(1). Under this bill there are no provisions for living expenses and food, as there is with VRS. I would have received a maintenance allowance under FBA while participating in a VRS training program. I am already expected to pay back the OSAP loan, which could reach \$25,000 over a five-year period, assuming fees do not increase any more. My learning disability will restrict the number of courses I will be able to handle, so I will have to take five years to complete a three-year program."

Of course, if this student above was a little older and on GWA, her benefits for welfare would be discontinued when she started a training program.

Under VRS, these clients would receive assessments, counselling, training and a program that would meet their individual needs. They could appeal the level of supports to an impartial arm's-length tribunal that has the power to rule on the interpretation of the VRS act. Yet you say in your Common Sense Revolution, "Aid for seniors and the disabled will not be cut."

In the ministry's compendium, on page 35 under services available, it states, "employment planning assistance, individualized supports to job seekers with disabilities" — we need more information — "technological aids and devices and human supports" — specifically, what is provided? — "pre-employment services, ongoing job supports, and employment developmental strategies."

Not mentioned in Bill 142 for the disabled to even comment on is the level of financial support that will be provided with assistance for home and vehicle modifications and attendant care services.

On page 28, the compendium states: "to provide for the transfer of persons eligible for an allowance or benefit under FBA." This is what Bill 142 replicates in schedule D, paragraph 2. Yet on page 24, it states: "All recipients who qualify for family benefits as 'disabled,' 'permanently unemployable' or 'aged' at the time the new legislation would come into force would be grandparented into the ODSP." There is confusion. "Transfer" offers no guarantees; "grandparented" offers more protection.

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Under the Ontario Works Act, part V, General, 74(3)(a), the second paragraph, all of the above disabled citizens must submit to a regulation that requires "identification of the person by means of photographic images or encrypted biometric information." This is very demeaning for individuals with disabilities who need help.

In the Council for Exceptional Children's September-October 1997 magazine, there are startling statistics

regarding unemployment and level of poverty for the disabled in the United States. It's exhibit 5. I would share with you Canadian statistics, but they are not available.

In this article it states:

"Forty-seven per cent of adolescents with learning disabilities drop out of school by the age of 16.

"People with disabilities have an employment rate that is among the lowest of any group of Americans under 65 years old.

"Dropout rate: Research shows that the dropout rate among students with mild disabilities is a major national problem.

"Unemployment and poverty: People with disabilities are twice as likely to be poor, as compared to people without disabilities."

Should we not be concerned in Canada that Ontario's disabled may mirror these shocking facts?

To support my contention that in some parts of Ontario, namely the greater Toronto area, these facts are indeed reflected in Ontario's communities, I have enclosed Outstanding Needs of Communities at Risk, September 1997. This was published by the city of Toronto urban development services and the Metropolitan Toronto community services. It's exhibit 6.

Where are the biggest gaps? Page 1: Child care, health and rehabilitation programs, skills training and supported housing. Who needs these services? The client group most frequently found to be in need of services includes people with disabilities, youth, seniors etc.

Needs for specific program areas: People with disabilities are recorded as the highest group.

I could go on, but if you look at this report, it is the disabled, youth and the poor who are suffering in this climate of cutbacks. Yet in Bill 142, you propose to offer services only to individuals with disabilities who are 18 years of age and older. VRS covers them at 16 and over and provides wide-ranging services to help them become employable. You propose to strip the disabled of any guarantees for assessments, assistive devices, counselling and the help of qualified professionals. You wish to make disabled Ontarians — your constituents — second-class citizens.

In closing, because of time constraints, I am enclosing exhibits 7 to 13 that reflect AND's concerns about Bill 142.

Your disabled constituents do not have large unions to plead their case at the government level. Their disabilities make it difficult for them to march in rallies and come to Queen's Park or North Bay, since they are scattered throughout the province of Ontario. Are the disabled in Ontario too insignificant to be consulted? I do not mean consulting with agencies who serve the disabled; I mean opening up public meetings throughout Ontario, where you invite the disabled to come before you and bring their concerns.

We do not see this as an enabling piece of legislation but a draconian cutback in services to your most vulnerable constituents.

Thank you for allowing us to share our concerns.

The Chair: On behalf of the committee, thank you very much for making your presentation this evening.

Ms Lankin: Madam Chair, I would like to place some questions on the record to the ministry. Specifically, I'm wondering if you could provide the committee with a copy of a review of VRS that was conducted by Frank Reilly during the years 1987 to 1988 which did a cost-effective assessment.

I'm also wondering if the ministry could provide an answer with respect to the reasons for downgrading the role of assessment to counselling in mandatory assistive devices. That's not an area of employment support that you seem to be emphasizing within the new bill.

I was also curious to see, in the presentation that was just made, in the accompanying material, a chart that showed the status at closure by disability. This is from the years 1992-93. It showed that 29% were people suffering from psychiatric disabilities — we've heard directly from those representatives of that community that VRS had not worked well for them — but 56% were people with developmental disabilities and 41% learning disabilities.

I was wondering if the ministry could provide, or perhaps the VRS department itself could provide, some sense of what types of supports those two categories most rely on in terms of support from VRS and what percentage of those people are able to actually enter into competitive employment, which seems to be stressed in the new legislation.

The last question I have is, it also appears that the chart indicating status of closure by disability shows that 31% had addiction as the reason for their disability. I wonder whether the exception to the eligibility criteria in 4(2) would disqualify many of those individuals who have been determined to have been disabled by addictions.

The Chair: Mr Carroll, can we have that information?

Mr Carroll: With all due respect, Madam Chair, I would appreciate if those questions — I didn't get the questions. If we're going to get into a bunch of questions at the end of a presentation, when there's no time left, we should all get an opportunity to comment.

The Chair: The procedure is that anyone can put a question during the proceedings of the committee and the ministry can either accept and bring an answer or refuse to bring an answer, or not bring an answer without giving a refusal. But it's unprecedented that we would wait until the end of the proceedings and have everyone discuss, if I understood your point correctly, whether the questions are suitable or not. A request has been made by Ms Lankin. Your responsibility is to take that back to the ministry and bring back some kind of an answer.

ONTARIO MARCH OF DIMES

The Chair: Our next presenter is the Ontario March of Dimes. Mr Raina, welcome. I note that you have some copresenters with you. Would you mind introducing them for the record. You then have 15 minutes.

Mr Duncan Read: My name is Duncan Read. I am the president of the Ontario March of Dimes, an organization

I'm sure is known to many of you for its work with the disabled community across the province for these past 46 years. For the record, I note I am also a consumer. On my left is Mr Jim Grant, the chair of our government relations committee, who will make our presentation. On my right is Mr Paul Raina, our government relations coordinator. Our attempt will be to be concise and to leave an opportunity for questions.

Mr Jim Grant: On behalf of the Ontario March of Dimes, I would like to thank you for this opportunity to speak to Bill 142. We will only be addressing issues pertaining to the Ontario Disability Support Program Act and not the Ontario Works portion of the legislation.

As a province-wide organization that serves the needs of adults with physical disabilities, Ontario March of Dimes supports the ODSPA as a progressive step towards enhancing the independence and economic participation of persons with disabilities. This new separate support program proposes to replace an outdated welfare approach to persons with disabilities with a system that provides secure income and employment supports.

The program recognizes that persons with disabilities can and do want to work, and will provide the supports and incentives needed to achieve that goal. The immediate reinstatement of income support if an attempt at employment fails will definitely motivate persons with disabilities to realize their employment potential. I should note that "motivate persons with disabilities" should say "further motivate." We do not mean to give any impression that they are not already motivated and have a desire for full employment potential.

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Moreover, persons with disabilities will have the opportunity to attain greater financial security as they will be able to retain higher amounts of allowable personal assets and compensation awards, and benefit from trusts, gifts and inheritances provided by their families.

Although not specifically part of the ODSPA, the government's plan to eliminate the 25% copayment towards the cost of assistive devices will significantly help individuals who often require costly assistive devices to achieve or enhance their independence.

While the ODSPA has many positive aspects, there are certain areas that have the potential to nullify the spirit of the act. The definition of "disability" and the provisions for eligibility for income support, income recovery and the appointment of a third party are restrictive and/or may hinder persons with disabilities from achieving independence and becoming contributing members of society.

We are uneasy about the fact that so much of the real substance around issues such as eligibility and recovery of assistance are left to the as yet unknown regulations. The regulations have the potential to either move the legislation in the direction that the government has repeatedly said it wants to move or they could act as a tool to greatly restrict access to income support and other assistance.

On the point of eligibility, our main area of concern is eligibility for income support. The legislation states that income support shall be provided to a person with a

disability. Under the proposed definition of "disability," section 4(1)(a) states: "The person has a substantial physical or mental impairment that is continuous and recurrent and expected to last one year or more."

Section 4(1)(b) states: "The direct and cumulative effect of the impairment on the person's ability to attend to his or her personal care, function in the community and function in the workplace, results in a substantial restriction in activities of daily living."

In both subsections, the word "substantial" is used. As the word "substantial" is arbitrary, we fear that its application will constantly create heated disputes over an individual's eligibility.

We recommend that in section 4(1)(a) the word "substantial" should be removed and that in section 4(1)(b) it should be replaced by an objective term, such as "any degree of restriction." The removal of the word "substantial" in both instances would ensure that persons with varying degrees of disability would be justly treated, guaranteeing inclusiveness.

It is our understanding from conversations with members of the government and ministry staff that under the proposed definition an individual must qualify under one of the categories rather than all three, as feared. This clause should therefore be amended to read "or" instead of "and."

A further element of insecurity concerning eligibility for income support is created in section 54, "regulations," subsection 9, where it states that through the Lieutenant Governor in Council — the cabinet — "additional conditions relating to eligibility for income support" can be created.

The spirit of the legislation is to provide persons with disabilities with income security and employment supports to increase their independence. Regulations that allow additional conditions for eligibility to be created are at risk of being restrictive or exclusionary, which would regrettably nullify the spirit of the act. We recommend that such regulations be removed.

Under income recovery, this is another area where the regulations could reverse the intent of the program and turn all forms of assistance into nothing more than a loan.

With respect to liens, section 7 states: "The director shall in prescribed circumstances, as a condition of eligibility, require a recipient or dependent who owns or has an interest in property to consent to the ministry having a lien against the property, in accordance with the regulations." Further, in subsection 54(1)(12) regarding regulations, it is stated that the Lieutenant Governor in Council has the power to set regulations, "respecting the powers of the director with respect to a lien and the process for securing and discharging a lien."

Yet in remarks to the Legislature on August 28, 1997, Mr Jack Carroll, MPP for Chatham-Kent and parliamentary assistant to the Minister of Community and Social Services, stated, "The primary residence of anybody who is on the Ontario disability support program will not be subject to any liens."

Ontario March of Dimes has been repeatedly told by members of the government and ministry staff that the intention is to not place liens on primary residences of individuals on the ODSPA and that the regulations will include this. Ontario March of Dimes would like to see this stated clearly in the legislation and not left to the regulations, which can be changed at any time without public debate or input.

Appointment of a third party: Another area we have a great deal of trouble with is section 12, "appointment of person to act for recipient." This section states:

"The director may appoint a person to act for a recipient if...the director is satisfied that,

"(a) the recipient is using...his or her income...in a way that is not" beneficial to him or her, or

"(b) the recipient is incapacitated or incapable of handling his or her affairs."

There is nothing in the act which specifies how the director will arrive at this determination. Persons with disabilities are vulnerable and are constantly having to protect their rights from individuals and institutions who insist on making decisions for them. The minister has spoken many times of the government's wish to move away from being patronizing towards the disabled community. How, then, can you empower someone if you give their benefits to a third party? There is also no appeal process for the individuals affected.

We recognize the need for third-party recipients in certain circumstances, but we must insist that either there be an appeal process or that the decision be based upon the Substitute Decisions Act, which involves a process by which individuals are determined to be incapable of self-directed care.

The appeal process for this and other aspects of the act must involve a panel which includes representatives from the disabled community to ensure fair consideration.

The last element is employment supports. While we applaud the government's approach to employment supports, concern arises that an individual's earning potential may not be sufficient to cover additional costs associated with his or her disability. Persons with disabilities can and do want to work. They are willing to work to their fullest extent possible, which maybe full-time, part-time or occasional. Programs to top up income and the guarantee of continued benefits will be essential to participation or else people will not be able to afford to work.

These are some of our specific areas of concern. However, overall we commend the government for introducing this legislation. The spirit of this program truly recognizes that persons with disabilities want to be full participants in society and to this end deserve legislation that specifically addresses this.

Ontario March of Dimes appreciates the opportunity to present our concerns to the standing committee and looks forward to future and further dialogue on the enhancement of independence for persons with disabilities.

The Chair: We have about five minutes for questions, just over a minute per caucus. Mr Cullen for the Liberals.

Mr Alex Cullen (Ottawa West): Thank you for your submission. I am hopeful that your excellent suggestions will be picked up by the government.

I have a question about the section in the legislation that essentially creates two classes of recipients when it comes to disabilities. We have the minister's comments that, "The Ontario Disability Support Program Act creates a new program to significantly improve income and employment supports for people with disabilities." Further on, and this was stated today, she said, "The purpose" — of the Ontario disability support plan — "is to create a more inclusive and sensitive recognition of the different dimensions of disability." Yet we have within the legislation the grandfathering of those who are already on FBA. Does this concern your membership, that we're creating two classes of recipients under this legislation?

Mr Paul Raina: I guess to put it bluntly, we appreciate the fact that people who are currently on the system will be grandparented, and we hope and assume — and will fight for — that people who have the same qualifications as current benefits will continue to be put on the new system.

In other words, certainly if we thought that people who are currently on will be grandparented and people who have the same qualifications will not be allowed to come on in the future, then of course that's an inequitable system. Our assumption by that statement is that you will apply the same standards to all future applicants.

Mr Cullen: One hopes.

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Ms Lankin: I agree with the recommendations you have made and I have spoken to those during second reading, that we can't leave eligibility criteria to regulation. It must be clear in the legislation that there can't be liens on primary residences, and the assessment of capacity or incapacity has to be done under laws that have been provided to give rights of appeal to individuals.

I wanted to place my question to you about employment supports. In general, I think most of us who have seen this bill as having the potential of being a positive step for persons with disabilities think that an employment supports program could be very positive. I guess there are a couple of concerns I have, and I would ask you to comment on that.

First of all, the legislation sets out that prescribed employment supports may be provided. That leaves it to regulation and it leaves it to a big "may be." I'm wondering if you would like to see something a little bit more definite in the legislation.

Second, it talks about those supports being provided to people with disabilities who are interested in or capable of competitive employment situations. There would be many people who would be left out in that definition and who might require some of the current services that are in vocational rehab which don't appear to be continued in what the government is proposing for employment supports.

Mr Raina: I guess there are a couple of answers to that. First of all, we're trying very hard to look at the

legislation and not get confused with regulations and programs. Certainly we are hopeful that a number of current programs that are in place under VRS and other pieces of legislation will be transferred over and continued under the ODSOA. We recognize that this is a shell piece of legislation and not much more.

The word "competitive" has come up several times and we've had lots of discussions. It's like all semantics: You can find arguments on both sides. We've met with some government members and their interpretation of "competitive" is to mean that you can have a job like anyone else. I suppose for the sake of brevity we decided to take that little section out and not comment on "competitive."

Certainly it concerns us as to how you would define the word "competitive." Does it mean simply that you should be able to go and have a job like anyone else, as if in some way you're different, or is it designed to say that if you can't compete the same as an able-bodied person then you don't get the job? I suppose that debate may have to hold off, in this case, until we see a bit more of the regulations, which you can rest assured we will be monitoring very closely.

The Chair: Mr Carroll for the Conservatives.

Mr Carroll: Thank you for your presentation. Your concern with the definition and also some concern with regulation — I presume you've seen the current Family Benefits Act. It's 11 pages, and the General Welfare Assistance Act is only nine pages. Some of the regulation-making authority that exists now says, "The Lieutenant Governor in Council may make regulations defining 'person in need,' 'blind person,' 'disabled person' and 'permanently unemployable person.'" At least we have now put into the legislation much more in legislation than was ever in the previous act and we have put a definition in there that under the old system was defined in regulation. Do you feel more comfortable about the fact that we've at least been up front in declaring much more in the act than the current act?

Ms Lankin: Madam Chair, he's leading the witness.

The Chair: This is not a court of law, Ms Lankin. He can do what he wishes. Mr Raina can't be led in any event. I know him well.

Mr Raina: The short answer to that is, obviously, as we've stated in our presentation, we do like the spirit of this act and we do think it's going in a progressive step. We aren't particularly happy with the present legislation either. If we had the chance to speak to that, we probably would, and would like to see it taken out of the regulations there. Anything that will enhance and guarantee independence for people with disabilities is what we are here to promote. The current legislation is far from perfect and the proposed legislation is far from perfect. It may in some aspects be getting closer, and we're here to nudge you along in that direction.

Mr Carroll: We appreciate your help. Thank you.

The Chair: Mr Grant, Mr Read and Mr Raina, thank you very much for being with us this evening.

ONTARIO ASSOCIATION OF INTERVAL AND TRANSITION HOUSES

The Chair: The Ontario Association of Interval and Transition Houses, Eileen Morrow.

Mrs Pupatello: A question for the parliamentary assistant, while that group is coming. Mr Carroll, is it your intention to bring forward amendments on the points that were made, that three groups tonight have indicated in discussions with you or Conservative MPPs, that you've agreed to, items specifically regarding the lien, for starters, and the "and/or" clause? Are those amendments coming, Jack?

Mr Carroll: The question about amendments was asked earlier and I was asked to have an answer for tomorrow. So I believe the question has already been answered and I shall have the answer tomorrow.

The Chair: We'll await the answer tomorrow, then.

Ms Morrow, I note that you have a copresenter. May I ask you to introduce her for the record? You have 15 minutes.

Ms Eileen Morrow: I'll let her begin, actually.

Ms Liz Westcott: Good evening. My name is Liz Westcott. I am here representing the Ontario Association of Interval and Transition Houses. This evening I am joining my colleague Eileen Morrow, who is the lobby coordinator for the association. I would like to start by thanking everyone here this evening for the opportunity to bring our issues to the table.

The Ontario Association of Interval and Transition Houses, known as (OAITH), is a 60-member coalition primarily of emergency shelters for abused women and their children across Ontario. Since its inception approximately 20 years ago, the association has worked to improve public policy and systemic response to the concerns of women who experience violence from their partners, as well as the needs of their children who are forced to witness violence against their mothers.

OAITH is the largest association for abused women and shelters in Canada.

OAITH is well qualified to contribute to the consideration of any changes to legislation or regulations regarding social assistance issues. Shelters in the network work on the front lines with thousands of abused women every year who are forced by violence to leave their homes and apply for social assistance in order to survive financially. Seeking the expertise of both survivors of male violence and their advocates therefore should be a priority for those who would implement those changes.

One of the primary tactics of power and control for abusers in relationships is to isolate victims from support and means of escape. Among the array of isolation tactics abusers favour, economic control and isolation is one of the most frequently employed. Abusers prevent women from working, from working full-time and from attending training and education that would afford them any avenue of economic independence from control.

When women are able to work, the violence affects their ability to perform at their highest potential because it

often results in absenteeism, poor concentration and difficulty in pursuing opportunity for advancement and promotion. Even abused women who work full-time may have no control over their finances and are often forced to surrender their assets to an abuser's control. Leaving the abuser doesn't guarantee financial independence and may in fact leave women with no choice but to also leave their employment to escape harassment and stalking at their workplace. Women are frequently forced to move from their neighbourhoods or communities, disrupting any work and education opportunities they may have had access to in the past.

The majority of women living in emergency shelters have been dependent on their abuser for financial support, either fully or partially. It is commonly known therefore that when they attempt to escape violence, abused women are frequently forced to apply for social assistance, often for the first time in their lives.

I will now turn it over to Eileen Morrow to complete our presentation.

Ms Morrow: I'm just going to hit the highlights. We've written a brief, which you have in your hands. Obviously it isn't something we could read to you in the short amount of time we have, so I'd just like to highlight some of it and I guess beg you to read it and to consider the points we've made. Of course, we also didn't touch on every single concern that we had with regard to the Social Assistance Reform Act. Specifically, we're going to point out some major concerns we have for abused women and their children with the Ontario Works Act.

Primarily, I'd like to just talk a little bit about why we are so concerned about this act. There is not very much research done in Canada on the number of women on social assistance who have experienced violence, but there is beginning to be some information and research done in the United States. There are a number of studies currently in our hands at this point, and I just want to talk about one that I think is illustrative of the concern that we have.

The governor's commission on domestic violence in Massachusetts did a survey of women on social assistance there with regard to welfare reform and discovered that 65% of the women on social assistance have in fact experienced criminal violence and threats against them, either currently or in the past, and that one fifth of them, 20% of them, had experienced those acts in the past year. So that is the very current experience of violence. When they added emotional abuse, the number rose to 70%, and over half of the women, 55%, had actually taken out restraining orders on their abusive partners.

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Our point is that the number of women on social assistance who are experiencing, and have experienced, violence against women is very high. It really calls for policy that is geared to a comprehensive analysis and understanding of violence against women and its impacts on women in terms of making a shift from welfare to financial independence.

I say that because those studies also show that 90% of abused women on social assistance have worked full-time

or part-time at some point in their lives, and that 90% of them, almost all of them, express the wish to be employed and not to be at home full-time on social assistance. We have concerns about the fact that there are so many women who have to escape violence and live on social assistance, who want to leave social assistance and who are not able to do that because of the barriers either presented by poverty or presented by the impacts of violence against them.

With regard to the Ontario Works Act, we're particularly concerned about mandatory requirements for participation in employment assistance programs and the kind of impacts that violence may have on a woman's ability to participate fully and successfully in those programs. We would like some consideration of issues such as continuing harassment and stalking of women, physical injuries, emotional distress and sometimes severe trauma of women that may impact on their ability to fulfil requirements within those programs.

We're also concerned that there is no assurance that there will be regulated quality child care provided for women who are required to be part of these programs. We'd also like to point out that the impact of witnessing violence on children may in fact impact on women's ability to participate in these programs, because there will be some women and some children who are fearful of separation, and particularly separation into informal child care arrangements where there is no safety planning and no assurances of security and safety for the children or for the woman.

We know, for instance, that abusers, as Liz said, isolate their victims and that means that the current government's suggestions of getting child care from neighbours, families, friends and so on is absolutely not acceptable. Many women are moved many miles away from family and friends and have no personal contact with their neighbours. Even informal arrangements of that kind for child care are not acceptable for an abused woman on social assistance.

We would also like to express our concerns tonight about the aggressive child support enforcement that is suggested in the Ontario Works Act. This is a continuing problem with social assistance receipt by abused women and their children in Ontario. It's not new within this act. It occurs now within the current legislation. Because abused women are in situations where ongoing contact with their ex-partner may very well result in increased violence and injury, it's not appropriate to expect abused women to aggressively pursue child support enforcement.

I just got a letter last week from a shelter director that had been sent to an abused woman within that shelter demanding that she appear at a meeting with regard to child support enforcement with her partner; that she was responsible for making sure he attended the meeting and that she was also responsible for making sure he brought appropriate financial documentation with him. She was warned that if she didn't comply with this requirement she would face legal action and have to hire a lawyer to defend herself.

This is an ongoing problem in Ontario right now. We would really stress our fears that aggressive child enforcement for abused women on social assistance could lead to them removing themselves from social assistance and ending up homeless, returning to abusers or in fact suffering increased violence.

We're also concerned about a number of other elements within this act, for example, the liability of spouses for the debt of their partners and ex-partners. As you can imagine, this provision for abused women would be severe. Many abused women have absolutely no control over the finances, have no knowledge that any debts have been incurred and have no control over whether or not they are paid. The fact that there are appeals limitations on these aspects of the act is also a problem.

We are of course very concerned, as the last group was, with third-party control of social assistance cheques. We know that abusers, for instance, often allege that abused women are incapable of managing their financial affairs, and they often get abused women in certain situations to believe that themselves. We are very concerned that there will be offers from ex-spouses and members of the circle of influence of abusers to take control of those funds when there are some concerns. We have fears of what will happen to abused women if that kind of control and that kind of lack of autonomy is forthcoming.

We're concerned about the maintenance of assets for women who are shifting from family benefits assistance. It's very important for abused women to maintain some cushion of security that they can use when they have to react to what are often unpredictable, random violent acts from their ex-partners and partners. It would be very important for women to be able to maintain sufficient assets that they could take action, if necessary, to make themselves and their children safe.

We're concerned about confidentiality and personal information elements of this act. The confidentiality of personal information of abused women is very important. Women are often put at risk by government systems that pass information from one to the other. Abusive spouses within those systems can easily track women, and have tracked women, across this country using those systems. Abusers have also used private detectives to crack into those systems and, by whatever ways and means, to use that information to track down abused women, and women have been killed as a result.

We're running out of time, so I would just like to ask you to look at our recommendations. We believe there are a number of policy implications for the impact of violence against abused women on social assistance, including identification of abuse, training, confidentiality, safety, planning within the programs, referral to counselling for women who are abused within the social service system and so on. We've made a number of those recommendations.

There have been amendments, for example, in the United States, and I know that you've looked at programs in the United States to model welfare reform. I think I would also point out that there is a family violence

amendment to the new welfare reform in the United States and, although I am not happy with the amendment as it stands, that is one idea I would ask this committee to look at: to look at consulting with front-line advocates, consulting with survivors of violence against women on social assistance; to make amendments to these acts and to the regulations, which are endless apparently within the Ontario Works Act; and to make sure that there is a comprehensive recognition of the impact of violence against women on social assistance policy.

The Chair: Thank you very much, Ms Morrow and Ms Westcott, for your presentation. Unfortunately, we've run out of time, but we do thank you for coming this evening.

Ms Lankin: Madam Chair, I would like to place a number of questions to the ministry. First of all, I would like to receive whatever analysis the ministry has available of the percentage of women —

The Chair: Just a minute, Ms Lankin, if you don't mind. Mr Carroll, Ms Lankin has a number of questions. I thought perhaps you might like to hear what they are.

Ms Lankin: The first question was for statistics from the ministry of the percentage of women in receipt of social assistance, family benefits, who are victims of violence from their partners.

Second, what analysis was done of the provisions of this bill that have been brought forward in terms of its impact on abused women? What consultation was done with the community of abused women? What safety mechanisms are being built into the programs?

Two areas in particular concern me. One is with respect to workfare and the confidentiality aspects of participation. For example, we've seen all sorts of articles in newspapers about what workfare projects are going on in communities. I wonder what impact that might have on an abused woman who is trying to remain confidential and away from an abusive spouse.

Similarly, with respect to the accompanying child care provisions, there is some rumour that municipalities are going to be able to use subsidies in unregulated child care spaces for workfare participants. I'm wondering, for abused women and children where safety is a concern, what guarantees or safety provisions or assurances are going to be built in to ensure that we're dealing with regulated and secure care of children?

The Chair: Mr Carroll, we can expect those answers?

Mr Carroll: Yes.

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ONTARIO SOCIAL SAFETY NETWORK

The Chair: Could I ask the Ontario Social Safety Network to come forward, Reverend Susan Eagle, Jo-Anne Boulding and Malcolm Shookner. Rev Eagle, thank you very much for coming. You have 15 minutes to make your presentation.

Rev Susan Eagle: Thank you very much. I work for the United Church as a minister and a community worker. With me is Malcolm Shookner, who is the executive director of the Ontario Social Development Council, and

also Jo-Anne Boulding, who is a lawyer in Muskoka. We are here tonight to represent the Ontario Social Safety Network and, on behalf of the network, to express some grave concerns about Bill 142.

Our network is a provincial coalition which was formed to inform communities across the province about changes in social programs. Our membership includes low-income individuals, anti-poverty groups, faith communities, people with disabilities, labour, legal clinics and social service providers. In fact, when we sent out the back-grounders which we have just provided to you in the binders today, we sent out to 700 to 800 organizations across the province. Our membership has grown greatly in the last couple of years.

Two years ago this government reduced social assistance payments by 21.6%. It was a reduction in income that caused great hardship for many and pushed others off the system entirely. A year ago our safety network released the Anniversary of the Cuts report which was mailed out to all members of the Legislature — some of you may remember receiving it — in which we tried to document what was happening already with cutbacks. Also during the last couple of years we have seen the impact of the loss of the Canada assistance plan which made it possible that a piece of legislation like Bill 142 could happen.

There is no way for us to predict the extent of suffering that will occur when and if Bill 142 is implemented in its present state. However, we are clear that it will further erode welfare rolls, not through acquisition of jobs by clients, as the minister has occasionally stated, but through denial of access by legitimate claimants who will have nowhere else to turn. We are also clear that those who do remain on the system will have their rights and dignity severely curtailed.

We remind this committee of the extensive work that's been done by previous administrations, including the Transitions, Back on Track and Time for Action documents which all concluded that reform of social assistance was necessary, timely and achievable, but in a fashion that could enhance clients' rights, encourage their responsibility and, through proper supports and employment strategies, move people off the welfare system and into the mainstream of the economy.

Not only does Bill 142 move in the opposite direction of the suggested reforms, we believe it will create more poverty and further the gap between the affluent and the needy in our communities. In fact, we believe Bill 142, through its shift towards making welfare a loan program, will place so great a burden on those already impoverished that they will be forced into a permanent economic underclass of our society.

We have very little time to present to you tonight so we want simply to identify some areas of concern that we have in the bill: conditionality, which will exclude those in need; unpaid labour exempt from labour legislation; unspecified police powers for fraud investigators; exclusion of classes of people; extensive decision-making through regulation; welfare as a loan; limited areas of

appeal; restrictive definition of "disability" that will exclude disabled people; absence of any government commitment to mutual responsibility, such as employment supports.

As well, we are concerned that the process of community consultation has been virtually non-existent as the government has moved ahead with the new legislation. Even now we are being asked to comment on Bill 142 without any opportunity to review the regulations which will govern so much of the content of the program itself.

As a social safety network, we are committed to fundamental principles of human dignity, mutual respect, economic equity, social justice, compassion and self-determination. We believe that a healthy and just society requires the full and meaningful participation of all its members and that all members of society require, and have a right to, the basic necessities of life, including adequate food, shelter, health, dental care, education and child care.

We don't need to remind you — we have listed them in our brief — of the number of international covenants that we are participants in as a country, and we believe we are also accountable as a province for our participation in those.

Bill 142 undermines our obligations, targets and harms the vulnerable, and destroys the dignity of thousands of Ontario children, women and men.

Included with our statement tonight we have brought you a list of recommendations; an extensive analysis of Bill 142; and a copy of our most recent publication, Reality Cheque: Telling Our Stories of Life on Welfare in Ontario, which is the stories of people on assistance who have provided that through the vehicle of the Social Safety Network so that their stories could be told.

As well, in our brief tonight we have brought you a copy of an article from the Simcoe Reformer in which someone in charge of workfare was suggesting that people could dress up in Dickensian costumes and go out and bring Charles Dickens' Christmas Carol to the streets of Simcoe.

We urge you to completely rework Bill 142, gut the most odious and offensive sections that will deny basic rights and reconsider the purpose of social assistance offered by the Transitions report:

"All people in Ontario are entitled to an equal assurance of life's opportunities in a society that is based on fairness, shared responsibility and personal dignity for all. The objective of social assistance therefore must be to ensure that individuals are able to make the transition from dependence to autonomy and from exclusion on the margins of society to integration within the mainstream of community life." Our first recommendation this evening is that that definition replace your current purpose clause in Bill 142.

Ms Jo-Anne Boulding: I'm just going to highlight some of recommendations which are stapled together right behind the brief that Susan just read. We're not going to go through every single one, but our position is that workfare is morally wrong, that mandatory workfare

requirements should be deleted from the social assistance act. We oppose mandatory unpaid labour as a condition of eligibility.

We value parenting in our society. Single parents should engage in employment activities when they choose to. Those who choose to work should have access to safe and affordable child care, transportation and employment supports. Women and children escaping family violence should not be forced to work. Currently I'm the chair of the board of the women's shelter in Muskoka. We have received numerous calls over the past year from women telling us they are remaining in a violent home as they cannot afford financially to leave it and raise their children on welfare. Often the family is already in a financial crisis and there is no possibility that two households will be supported.

The cuts have already closed doors for women. This new bill will make life even worse for women as mandatory workfare can be imposed upon women escaping violence. Further, if women are fortunate enough after the breakdown in the family to have a matrimonial home, this act now holds out the possibility of a lien being put against that home. Someone who has fought so hard to get out of a violent home now will never be able to get off social assistance because the debt will be an end for them.

2120

Mr Malcolm Shookner: In the time remaining, we'd just like to highlight a few more of the 24 recommendations we included in the brief. You are finished, aren't you?

Ms Boulding: Go ahead.

Mr Shookner: Focusing first on the definition of "disability," number 6, the new definition of "disability" should mirror the language in the Ontario Human Rights Code to ensure that the ODSPA is not underinclusive. The new definition concentrates on the direct and cumulative effect of an impairment. This ignores side effects of treatments. Therefore the new definition should refer to the direct or causally connected or cumulative effect of an impairment.

The new definition of "disabled person" is far more restrictive than is necessary, as you've already heard this evening. A substantial restriction in one area of activity should be sufficient. We recommend that "and" be replaced by "or" in this part of the definition. The phrase "activities of daily living" should be deleted. It is sufficient that an individual be required to show substantial restriction in one ability to function: in the workplace or at home or in the community.

It is contrary to the Ontario Human Rights Code to disallow disability benefits to groups of people based on the nature of their disability. Alcohol and drug addictions are disabilities recognized by the code. The clause refusing to recognize the disabilities of people with alcohol or drug dependencies should be deleted.

Finger scanning or other forms of biometric identification should not be used on welfare recipients.

The sections of the act which deal with the powers of cabinet to define classes of people who are not eligible for

assistance should be deleted, and we refer to them in recommendation 11. This would mean that without any public discussion or scrutiny, the government can choose to deny assistance to entire groups of people they have decided are undeserving. Under the ODSPA as well, the cabinet may designate classes who are ineligible to receive assistance in order to remove barriers to employment. Both of these clauses are inappropriate for a social assistance statute and should be removed.

The rule which deems loans to be income should be repealed.

Assistance should be paid directly to third parties only with the consent of the recipient.

I'll highlight the last one, number 19, that eligibility review officers should not be given police powers.

We encourage you to read the rest of the recommendations. We also urge you to take advantage of the work that has been done by our people to do extensive background work on the issues we've raised briefly in this presentation. Thank you for your attention.

Ms Eagle: I'd like to mention that the Toronto Conference of the United Church asked me if I would also bring their brief. It was circulated to you this evening. They did not get on the hearing list tonight so they asked me as a fellow United Church person to please bring their brief as well.

The Chair: Thank you, Rev Eagle. You can certainly relay back to the other group that their presentation will form part of the formal proceedings. We thank all of you for being here this evening and making a presentation.

HEMOPHILIA ONTARIO

TERESA GROUP

The Chair: Hemophilia Ontario, James Kreppner. Welcome, Mr Kreppner. Would you be so kind as to state for the record the name of your copresenter. You have 15 minutes.

Mr James Kreppner: I'm James Kreppner. I'm vice-president of Hemophilia Ontario. To my right sits —

Mr Bob Watkin: Bob Watkin, president of the Teresa Group.

Mr Kreppner: I would just like to start off by saying that we will be addressing ODSPA for the most part. We endorse the document prepared by the HIV-AIDS community ad hoc committee on the definition of "disability." Both organizations endorse that document.

Haemophiliacs often suffer crippling joint bleeds and, as a result of that, do have situations where they become disabled. As well, through the blood supply, many of our members were infected with hepatitis and HIV during the 1980s, as has come out recently in the Krever inquiry. Any one or a combination of these factors may lead to disability on the part of our members.

I would at this point like to turn to Mark Freamo's earlier analogy. Mark Freamo was the representative of the People with AIDS Foundation who talked about the risk you're basically setting up by not including injection

drug users in this legislation. I think increasing their desperation is not likely to help stop the spread of HIV. We may be setting the background for another public health disaster in excess of the scale of the tragedy that affected blood users in the mid-1980s. I would just warn the government of that fact. I think it's not wise to be penny wise and dollar foolish in this situation. I think you're better off caring for those people than not caring for those people.

This will lead to a parochial concern, which I'll raise and get over with first, and that is that when the HIV compensation package was granted by the provincial government, part of the process of the negotiation was that HIV compensation would be exempted from any consideration or eligibility for social assistance. The settlement deal was that individuals could avail themselves of both social assistance and the compensation payments.

What happened was that the provincial government signed agreements with all the affected individuals. Section 6 of that agreement is called "Tax and Social Assistance Exemption." More particularly, section 6.3 of that agreement says: "The province agrees it will take reasonable steps so that the payments made under this agreement will not be considered as income for purposes of qualification or calculation of benefits pursuant to the Family Benefits Act, RSO 1990, or the General Welfare Assistance Act, RSO 1990, as the case may be."

Those acts, of course, are now being done away with by this legislation. What we want to ensure is that the intention of this agreement be honoured in this new legislation. This could be accomplished through a number of mechanisms. We think the best mechanism would be for it simply to be enshrined in the act, since it is not too late to make an amendment to the act to acknowledge this. It could also be accomplished by basically having separate agreements with all the individuals, but I think that's probably the more difficult process. So I would ask that this committee recommend a change to the act to take into account this change.

Obviously, if that is not accommodated, there could be court action launched to give attention to the agreement, but that would be a very poor third choice. We expect the province to live up to its commitments.

With that parochial issue aside, we share the general concerns that have been articulated here tonight by many of the deputants. There have to be substantive appeal rights. In my previous life, I did a little bit of tax law. There is a legal principle that there is no equity, there is no fairness in tax law. But even under tax law, Revenue Canada interpretation bulletins did not have the force of law, unlike the minister's power under this legislation to dictate interpretation of the legislation. This power makes any appeal — and there are few opportunities as it is — somewhat illusory if the ministry can direct the tribunal in terms of what the outcome will be. So we would strongly advocate against that.

I would also like to articulate and reinforce the principle that social assistance should not be a loan.

People in desperate need should not be further penalized with these lien provisions and loan provisions.

A number of times during this process we've been told that what the legislation states is not the intention of the government. I ask you to amend the legislation to reflect the true intentions of the government.

Mrs Papatello: Hear, hear.

Mr Kreppner: We require that the necessary procedural and substantive protections that have been outlined by previous deputants be in the legislation and not subject to the whim of policy and regulations. I would add that this includes extended health benefits. We've been told that there is an intention to have extended health benefits under the new legislation but we can find no reference to that in the legislation. So we would ask that that would be one of the amendments to be put into the legislation. Those are my submissions.

2130

Mr Watkin: We thank Hemophilia Ontario for ceding part of its precious time to permit us to make this presentation to you. We thank the members of the committee for listening to us. Our comments will be directed to the Ontario Disability Support Program Act, 1997, which will be referred to in this presentation as the disabilities legislation.

The Teresa Group is a charitable organization which has been in existence since 1990. As an AIDS service organization, our focus is the betterment of the lives of children infected and affected by HIV and AIDS. Currently we serve approximately 119 families in the Metropolitan Toronto area. We have contact with other families throughout Ontario. We work closely with the Hospital for Sick Children.

The Teresa Group wholeheartedly and without reservation endorses, in its entirety, the position statement of the HIV/AIDS community ad hoc committee on the definition of "disability" in relation to the disabilities legislation. We understand that this position statement has been submitted both to the minister and to this committee.

We understand from our meeting with the director and other officials of the opportunities for persons with disabilities branch of the ministry last Friday, and the meeting the minister had with the Ontario Advisory Committee on HIV/AIDS to the Minister of Health last week, that very necessary and important changes to the definition of "disability" will be tabled on the third reading of this legislation. We are grateful for this development.

In view of the brevity of the time allowed to us, we will limit our specific comments to two aspects of the disabilities legislation as addressed in the position statement of the ad hoc committee. One aspect is in relation to the definition of "disability" and the other is the debt obligation created by the legislation. Before making these comments, however, we feel it is necessary to address two fundamental premises which should not be lost sight of in the course of the review of this legislation.

Our review of the disabilities legislation led us to re-examine our basic values to which we adhere, as a

volunteer-based charitable organization and individually as citizens of Ontario and Canada. We hold it to be true that a fundamental value to which we adhere as Canadians is that we are committed to the basic support of those persons among us whose lives have been unalterably compromised by chronic or incurable disease or physical handicap, both institutionally through our governments and individually as citizens. The fulfilment of that value should not come with a price tag for its beneficiaries.

We recognize that there is a great need to reform the welfare system. We ask you, in the first instance, to consider the identity of the persons who are the focus of the disabilities legislation. It cannot be said of the persons who are its focus whether or not it can be justifiably said of anyone receiving social assistance, that conditioning or preference has led them to dependence on welfare. The legislation targets those persons whose lives have been irrevocably impaired by chronic, debilitating and incapacitating illness or physical handicap for which no known cure exists. Some aspects of the proposed legislation could have very grim consequences for these people and their children. The stress of those consequences could not only worsen their condition, it could also very well hasten their deaths.

For public health reasons, we cannot support the absolute exclusion in the definition of "disability" of persons suffering from chemical dependencies. In our work, these people are the most alienated and difficult to reach. This exclusion will only serve to alienate them further. The consequences of that alienation are very real and very dangerous. The rates of infection among those persons have undergone an exponential increase in Vancouver. Those statistics were provided to the minister last week.

In our own experience, our client base has expanded from 70 to 119 families in the past year and a half, due in no small part to intravenous drug use. Let us be clear that infection among these persons has been and will be the greatest potential source for the crossover of HIV infection into the general population. It is already happening. Narrow, moralistic approaches, such as the denial embodied in the definition, have not and will not work. It is time to develop an overall comprehensive and practical approach to the illness of chemical dependency. If we don't, the consequences could be drastic for a great many citizens of this province and this country.

We cannot do anything else but to deplore the creation of a debt concept in relation to received benefits under the disabilities legislation. Consider the consequences of this concept on the lives of a four-member family in which both parents and one child are HIV-positive and one child is HIV-negative. Beyond the disease itself and the consequences of opportunistic infections, each infected member of the family is following separate treatment regimes which impose different eating schedules on them and cause different side effects, including constant nausea, diarrhoea, myopathy and neuropathy for each of them.

The uninfected child is trying to live a regular life in these very difficult circumstances. The parents have tried

to maintain some sense of normalcy in their children's lives, but the combined effects of their deteriorating health, the endless round of doctor and hospital visits and the stigma associated with HIV/AIDS have taken their toll on the family's finances, personal strength and their ability to maintain regular employment. The stress on this family is enormous. In addition, under this legislation, the parents must face the fact that by accepting the support they are obliged to take in order to survive, they will be required to assume a burden of debt that will forever entrap them and mortgage the future of their children.

Consider the case of the uninfected child. That child is already struggling with the isolation caused by the stigma surrounding AIDS and very terrifying fear of becoming an orphan. In addition, that child will now face the prospect of entering into an independent life mortgaged to the hilt by a debt incurred by the child's parents to achieve a subsistence-level existence for them and their family. This debt concept is both illogical and draconian in effect.

Our statements concerning the consequences of HIV and AIDS on the social, psychological and economic wellbeing of families are not mere conjecture; they are borne out by our own experience. They are also detailed in the recent study *Children Born to Mothers with HIV: Psychosocial Issues for Families in Canada Living with HIV and AIDS*, prepared by the Hospital for Sick Children and other respected institutions across Canada. We commend this study to you. In particular, we ask you to consider the recommendations to governments developed and stated in it. We find more glaring disparities than incidences of concordance between those recommendations and the disabilities legislation as it now stands. Again, we thank you for taking the time to listen to us.

The Chair: We have two minutes remaining, so very quick questions.

Mrs Papatello: I have a question.

The Chair: Well, we start with the NDP. Ms Lankin, do you have a question?

Ms Lankin: Actually, I'll leave it to my partner. I wanted to ask a question of the ministry and research.

The Chair: Mr Kormos, do you have a question, very quickly?

Mr Kormos: No, I don't have any questions, I'm sorry. I'm not apologizing for not having any questions. You've said it. With respect to that very specific issue, I suppose there are many ways to say it, but nothing more in effect to be said. Thank you kindly. I hope others share the response that Ms Lankin and I do too.

The Chair: Mr Carroll for the Conservatives.

Mr Carroll: Just quickly, it is our intention in the regulations to honour the agreement that was worked out that you referred to in your presentation.

The Chair: Ms Papatello for the Liberals.

Mrs Papatello: The gentleman on my left, I didn't get your name when you started.

Mr Watkin: Bob Watkin.

Mrs Papatello: Bob, you mentioned that you had a commitment by the minister that the minister will come forward and expand the definition of "disabled."

Mr Watkin: We understood the minister to have said, at the Ontario Advisory Committee on HIV/AIDS, that the definition will be amended to change "and" to "or."

Mrs Papatello: That implies to me that an amendment will be forthcoming. I would like to repeat to the parliamentary assistant: To have groups come before us, spinning their wheels, not knowing what is going to be tabled before they're making their presentations is simply unfair and frankly it's cruel, because repeatedly, time after time, all day today and this evening, we have heard this and/or issue being brought up.

If that will be clarified, Jack, it's incumbent on you to come forward with that immediately. I've got to insist that if you, as parliamentary assistant, knew that was the case, you shouldn't have groups coming before us like this, not knowing, when one group has a commitment by the minister for such an amendment; not a regulation change, but an amendment.

Mr Carroll: Can I respond to my scolding?

The Chair: Yes.

Mr Carroll: It would probably be presumptuous to do much in the way of amendments until we've heard from

the presenters who come before us. We like to hear what people have to say.

Mrs Papatello: If the guarantee has been made already, why waste our time?

The Chair: Thank you both very much for being here so late.

Ms Lankin: I would like to ask if copies of the report by the Hospital for Sick Children that was referred to, Children Born to Mothers with HIV, could be made available to the committee.

May I just indicate to the parliamentary assistant that it's very impolite of him to call his minister presumptuous, given she's the one who made the commitment that the amendment would be coming forward.

The Chair: Ladies and gentlemen, we are scheduled to recess. I would say to all the members of the committee, the room will be locked, so if you wish to leave your things here until tomorrow, you may. We are adjourned until 3:30 tomorrow afternoon.

The committee adjourned at 2140.

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Standing committee on social development

Social Assistance
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Comité permanent des affaires sociales

Loi de 1997 sur la réforme
de l'aide sociale



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Tuesday 30 September 1997

Mardi 30 septembre 1997

*The committee met at 1530 in room 151.*SOCIAL ASSISTANCE
REFORM ACT, 1997LOI DE 1997 SUR LA RÉFORME
DE L'AIDE SOCIALE

Consideration of Bill 142, An Act to revise the law related to Social Assistance by enacting the Ontario Works Act and the Ontario Disability Support Program Act, by repealing the Family Benefits Act, the Vocational Rehabilitation Services Act and the General Welfare Assistance Act and by amending several other Statutes / *Projet de loi 142, Loi révisant la loi relative à l'aide sociale en édictant la Loi sur le programme Ontario au travail et la Loi sur le Programme ontarien de soutien aux personnes handicapées, en abrogeant la Loi sur les prestations familiales, la Loi sur les services de réadaptation professionnelle et la Loi sur l'aide sociale générale et en modifiant plusieurs autres lois.*

The Chair (Ms Annamarie Castrilli): Ladies and gentlemen, welcome to this, our second day of hearings in Toronto on Bill 142. As I indicated at yesterday's session, we have two days here in Toronto and four days on the road. In order to accommodate as many people as we can under the government's current time allocation motion, individuals and groups will have 15 minutes to make their presentation. With that, Ms Lankin, you wanted to say something.

Ms Frances Lankin (Beaches-Woodbine): Thank you very much, Madam Chair. Members of the committee will be in possession of an open letter to the Chair of the committee and the members of the committee from David Allen, executive director of the Canadian Hearing Society. It is with respect to the accessibility of these hearings to persons of the deaf community. On September 22 a request was forwarded to the committee from Gary Malkowski, who is the director of social services development of the Canadian Hearing Society. Many of you will know that Gary is also a former member of provincial Parliament.

In this request, he sets out that all sessions would require two interpreters to ensure accessibility. "Due to the nature of the bill, it is important that all sessions be accessible to members of society. While there will be specific times that deaf presenters will be actively participating, I

anticipate other times when members of the deaf community will be there to follow the proceedings themselves. This will mean that interpretation should be provided at all sites."

The response Mr Malkowski received was included in the response to him as a presenter on behalf of the community and indicated that there would be costs covered for an interpreter during the 15-minute presentation that Mr Malkowski and Mr Hardman will be making this afternoon. I think, as Mr Allen points out in his open letter, there is an irony to this. All hearings should certainly be accessible to all members of the public who want to participate, but it is extremely ironic in the case of the bill before us, when half the bill sets up a new income support program for members of the disability community.

Essentially, the letter sets out that by not providing interpretation during the hearings, the entire culturally deaf community in Ontario is excluded from participating and observing the proceedings on issues that directly affect their lives. As they indicate, by allowing costs to be covered for the interpreter during the session where Mr Malkowski and Mr Hardman will be presenting to us, we have essentially accommodated our needs during these sessions. They will be speaking in their first language at that point in time. In order for our committee to accommodate our needs for understanding, we will have the use of an interpreter, but during the ongoing hearings, members of the deaf community who may want to participate in the audience and to follow the proceedings will not be accommodated in a similar way.

The request that came in in September was for interpretation services to be provided for the extent of the hearings. I think it was most particularly directed to the Toronto hearings, but I can't be sure, from the nature of the letter. I think it is an issue on which it would make sense in the long run for the Legislature to have more specific policies. Certainly there is precedent in the past where we have had these services available in the Legislative Assembly. The defeat of Mr Malkowski should not have meant the passing of these services for other members of the deaf community.

I hope some accommodation may be made. I know Mr Malkowski will be arriving. I don't know if there are other interpreters accessible or if the interpreters who are coming with him may be available to stay for any other length of time. But I would ask that the Chair, in the discretion you have in the motion from the committee to deal with

expenses around accessibility to hearings — the intent of that was to talk about travel, but I think this is as important an issue of accessibility.

As the letter points out, they certainly assume we have not decided to take away access ramps for those in wheelchairs, and it is a shame that we have taken away interpreters for those in the deaf community. If there is any way to rectify that for the remainder of this afternoon or this evening, that would be greatly appreciated.

The Chair: Thank you, Ms Lankin, first of all for alerting me that you were bringing this matter to the attention of the committee, and second, for bringing the matter to the attention of the committee. I understand from the clerk that the practice in the past has been to accommodate as needed rather than to provide the service throughout the day, every day of hearings. Having said that, I hear your point that there is some discretion in the Chair. I would like to hear from members of the committee as to how we should deal with this, and make a decision on the basis of committee consensus on this.

Mr Peter Kormos (Welland-Thorold): First, my gratitude to the Canadian Hearing Society for alerting us to this. It illustrates how deep-rooted the problem is. I'm not criticizing anybody on the subcommittee or anybody on the committee — I suppose in a way I am, for all of us — but this should have been a matter of concern several weeks ago or at least several days ago when preparation was being undertaken for this committee. A significant part of Bill 142 deals with the revision of what was traditionally the Family Benefits Act and assistance for persons with disabilities.

As has been pointed out, you don't put up ramps on request. Accessibility doesn't mean, in 1997 in our society, that somebody can call Queen's Park and have a ramp put in place by staff so they can arrive at 2 pm and use the ramp. Accessibility means that there are ramps. Because of any number of decisions that have become the law in this province, accessibility doesn't mean entry through the back door, it doesn't mean token accessibility, and — I think of those same decisions, and you know which ones I'm referring to — it doesn't mean accessibility on request.

We should not be proud of the fact that we overlooked this, and I accept responsibility for that myself. Now that it has been raised, I don't think it's just a matter of ensuring that Mr Malkowski has accessibility, to wit, a signer available to him so that he can speak, as Ms Lankin properly puts it, in his language.

If these hearings are to be public, if they are to be accessible, especially in the context of what's being debated — it's the logical anticipation that persons with disabilities in this province are going to have a great interest. They have a great stake in what's being discussed here, and undoubtedly the irresistible conclusion is that they're going to have a great interest. Accessibility means having a signer available here so that deaf persons can meaningfully access this public place and participate in the hearings by way of members of the public.

Ms Lankin makes a compelling point. The Canadian Hearing Society draws our attention to the intense lack of sensitivity and awareness that remains even here and now in 1997. I think we're compelled to respond to this in the most active way possible and ensure that a signer is present during the course of these hearings, not only here in Toronto at Queen's Park, but on those occasions when the committee is sitting outside of the city. I can't anticipate any argument to the contrary.

The Chair: Mr Kormos, as the Chair of this committee in one previous sitting where I had to hobble with a wheelchair and a cane, I can attest to the importance of accessibility.

Mr Jack Carroll (Chatham-Kent): I don't disagree with anything that has been said. I guess it is a debate, really, of a larger nature, because it doesn't just involve this committee. It probably involves a debate about issues in the House as well as this committee and other committees. I think it's a debate that must be had at some time in the future, because it doesn't just involve this committee, the accessibility of what goes on in here to people who are hearing-impaired. I think it's a bigger issue than just as it relates to this committee.

I suggest that it was an oversight that we didn't talk about it at the subcommittee. I believe, though, if I could make a suggestion, we are here today to hear presentations from the people who have come here and given us their time. We should respect that and have this debate about this particular issue at another time among ourselves, because it's a big issue.

1540

Ms Lankin: I don't want to prolong this, because I agree that there are people waiting to make presentations. However, I don't think at this moment there needs to be the large debate. I would not disagree with you, Mr Carroll, that with respect to overall policies of this Legislature, there is an issue that should be discussed, but I would suggest that for the course of these hearings on this bill — although the issue does apply to every other bill, I agree — it is obvious that this bill is of great interest to persons of the disability community and we should ensure accessibility by whatever means we can.

We may not be able to rectify that situation today. There may be an opportunity to do that or there may not, but certainly for the course of the hearings, as we travel as a committee, I think we should allow the Chair to use the discretion we've given her with respect to paying costs for accessibility to engage the services of signing interpreters so that at least for this bill we will have rectified the problem. The larger discussion could take place at some other time.

The Chair: In the interests of time, I'm going to allow the official opposition a say and then we'll go to the question.

Mrs Sandra Papatello (Windsor-Sandwich): It's very difficult to understand why the government would be surprised that this might have been a request. In fact, when the minister herself presented the disability portion of this very same bill we're now in hearings on, she did

that offsite in downtown Toronto at another location. At that time, Mr Malkowski was present and spoke at that press conference and certainly was supportive of the minister's position in those areas. Whether he is today, we'll certainly get to hear. The point is that even in that location he himself made arrangements to have an interpreter. It seems obvious that the minister would be very much aware that this is a significant portion of the population being impacted by this bill specifically. There is no need to say, "We didn't think of it," because the minister herself experienced that when she launched a portion of this very same bill.

Second — I'm glad the irony was pointed out in the letter — we are talking about a bill that affects a certain group of people in Ontario. Those same people should have the opportunity to be heard and to understand what is being said here. I would certainly be in favour of organizing that as quickly as possible, at minimum, for the balance of the duration on this bill.

The Chair: Do I hear that we have consensus that we could proceed with services for the hearing-impaired? Is there anyone who's against that? Having said that, do we have it for the whole duration of the hearings? Anyone to the contrary?

Mr Kormos: Chair, if I may, best efforts to commence as early as possible today. There are any number of resources available.

The Chair: Very well. Is there anyone who has a problem with best efforts to begin immediately?

Mr Frank Klees (York-Mackenzie): Madam Chair, I don't have any problem with that at all, but I do have a suggestion for you. I thought we had captioning facility for our screens here. Perhaps one of the things we could do immediately is facilitate anyone by initiating — I don't know what you have to do to get the captioning on the screen, but in terms of audience participation, that's something we could do right away.

The Chair: I understand that's not available, that the budget for that was cut.

We have consensus. We will begin as soon as possible to provide interpreters. I thank you all for your input.

Ms Lankin: Madam Chair, I just want to thank you for helping facilitate that. I think it's important for that community.

UNEMPLOYED WORKERS COUNCIL

The Chair: I call upon the Unemployed Workers Council, John MacLennan. Mr MacLennan, I note you have some co-presenters. I would ask you to identify them for the record. You then have 15 minutes to use as you wish. If time permits, we'll ask you questions.

Mr John MacLennan: My name is John MacLennan. I'm the coordinator for the Unemployed Workers Council. Janie Rollins is the co-chair. Richard Hudon is a member of the council. What we're going to do is have Ms Rollins give a presentation and then talk about it, I guess answer questions.

First of all, let me say that this is the fourth time I've been to Queen's Park on a whole number of different issues and I have yet to come in favour of any of the bills that have been put forward by the government. I think it's pretty difficult. One thing we want to stress over the course of our presentation is the dramatic increase in people who lose their job and go directly to homelessness. Without Bill 142, this has been a tremendous phenomenon already. There are a tremendous number of people on the streets of Toronto and it's got a lot to do with the government coming to power and the changes they've made.

I guess the other side of it is the question that is more and more in the media, and I don't know if it's just the media covering it, but there are a lot of family killings and suicides where a great majority of the people involved have lost their jobs. I don't know again if it's just a phenomenon of the media's coverage, but I think it's also in the period of time of the government Mr Harris formed in 1995. I just wanted to leave it in that kind of context and hand it over to Ms Rollins.

Ms Janie Rollins: Thank you for giving me the opportunity to speak on Bill 142.

This government appears hell-bent on driving workers out of jobs and straight into homelessness. Bill 142 is the Harris government's chosen instrument for generating more homelessness. It is an immoral act because it criminalizes the poor for being poor. We demand that this bill be withdrawn immediately.

Each and every act of this government has been aimed in one direction, that is, creating a massive pool of cheap labour while forcing people to work for poverty wages. Bill 142 is a planned action to disempower every recipient and potentially everyone who is working.

While the Tories, through their vile pieces of legislation, are already sticking it to the most vulnerable in our province, this act comes at a time when only 31% of unemployed Ontarians are receiving employment benefits. That's down from 87% in the 1990s.

The American Civil War was fought at great human cost to rid North America of the scourge of slavery. In the 1930s and 1940s, Canadians, Canadian businesses and governments saw the writing on the wall and created our social safety net. This was done on the grounds of morality and of the self-interest of the country's élite. The Harris government, through Bill 142, is attempting to reinstate slavery in Ontario.

The effects of the present high unemployment will be compounded by Bill 142: increasing acts of violence — the recent killing of the doctor and landlord, the rise in petty thefts by the hungry for food; deaths directly attributed to the cutbacks occurring — a premature child forced to leave hospital too early, the number of welfare recipients committing suicide rather than begging for food, as well as youth who have stopped believing that they have a future; domestic violence on the increase, combined with women and children being forced from shelters back into abusive situations.

There is an implied assumption by this government that Ontario workers will just sit down and meekly take this. I state emphatically no.

Bill 142 is an inhumane, criminal act which will cause great human suffering and social chaos. Unemployed people will not stand for mandatory forced labour. We will not stand for our grandmothers, up to the age of 64 years old, being forced into labour. We are counselling them not to allow themselves to be fingerprinted. They should not have to divulge personal information, such as race, sexual orientation, blood type, opinions people hold of them etc etc.

We ask Mr Harris and his government to choose morality over greed in order not to have any more blood on their hands. If this is not motivation enough, we strongly suggest to the Harris government to chose long-term self-interest over misguided short-sightedness.

1550

The Acting Chair (Mr David Ramsay): That concludes your presentation? That allows about four minutes for each caucus.

Mrs Papatello: Thanks for coming to present to us today. I'd like to ask you something specifically about the bill itself, concerning liens on homes. As you know, the government is making a move to make this effectively a loans program. If you look at it from a welfare recipient's perspective and a government that says they want to encourage people to get back into the workforce, I find that interesting. By slapping a lien on the home, that actually works against that. If people are going to try to get back into the workforce, they know that the moment they're back working, they're working to get the lien off their home, so the incentive would be not to go back to work so that doesn't kick in. The very thing they would think would be an encouragement to get off the system would actually become a disincentive. Do you have any comments on the liens portion of the bill?

Mr MacLennan: The important part for most of our members who are on social assistance is that it doesn't become a question because they've generally lost their homes. That's the difficulty with the whole situation. When you go from losing your job and you finish your benefits, and you go from that to general assistance, social assistance —

Mrs Papatello: The process actually is like a gradual divesting of everything before you get down to actually applying.

Mr MacLennan: The process we have seen is that there's been a dramatic increase in the speed of that happening from losing one's job. I think it's causing most people in Ontario the same thing, that they see what happened. It's not a simple thing to walk down the street and see people asking for money because they've got nothing else. What frightens people, I think, is that there are more and more. Instead of being one every now and then, it's on every corner, sometimes two or three on a corner, on each corner of a crossroad. It's an incredible increase, and I think that's what concerns people for themselves, and it concerns us also.

Mr Kormos: Thank you, people. I want to mention something. You talk about the workfare. Down where I come from, Welland, some people there, either the children of families or some of the old folks still alive, remember that back in the 1930s in the township of Crowland, which is now part of the city of Welland, to collect relief you had to dig sewers, by hand of course, pick and shovel, for mere pennies a day. The workers on relief, forced to dig sewers, decided, as was their wont down in Crowland — they were organizing around the Ukrainian Labour Temple, and they decided if they were going to work a full day's work they deserved a full day's wages. They started efforts at negotiation, and finally struck: the Crowland relief workers strike. Mitch Hepburn was the Premier of the day. He sent down Hepburn's Hussars, who lined the streets of Crowland, forcing Crowland relief workers to dig at gunpoint. It was the OPP. It's a true story; it's been documented.

So down where I come from there's a different spin on workfare than there is perhaps in some other parts of the province, although I suspect most of the province has come to understand exactly what it is.

I just want to ask you this. The government has made great announcements about some 200,000 people struck off the welfare rolls. Mind you, 30% of them they've lost, simply can't find any more. Its probably because they haven't checked the hostels or the streets. Also, a whole lot of those people are singles. When I look at the new shelter allowance for a single, of \$325 plus \$195 for all your other expenses, I've got a suspicion that a \$325 shelter allowance in the city of Toronto — I have no doubt that a whole lot of people are off the welfare rolls as singles, because what do you get by way of accommodation in the city of Toronto for 325 bucks a month? Have you got any handle on that, any sense?

Ms Rollins: A lot of these are the people who are out begging; in other words, their entire amount from welfare is going to pay their rent. They're paying higher rent than that, so they have no money to eat, no money for transportation, no money for clothing, no money for telephone, no money for anything.

Mr Kormos: What are their prospects for employment then, assuming any jobs are available, when you've got no money for transportation, no money for clothing, no money for those things? Mind you, the minimum wage here is \$78,000 bucks a year, right? That's the minimum wage among MPPs.

Interjection.

Mr Kormos: Well, it is. That's after a 10% salary increase that immediately followed the 21.6% cut in social assistance. That's what this government did in 1995.

How does that impact on employability?

Ms Rollins: Oh, it cuts it right down. Employers can't contact them. They can't afford faxes. They have to walk to interviews and walk to hand in their applications because they can't afford the stamp to mail it. It makes it far more difficult for them to even apply for a job. It also means these same people are out there begging because they have no money for food. There's not enough in the

food bank to sufficiently fill them up. You can only go there once every two weeks.

Mr Klees: Thank you very much for your presentation. I must say that I'm somewhat taken aback by the very strong language of your letter. I think one of the advantages to this format of a public hearing is that it does allow us to hear concerns. Certainly, whether they be real or perceived, they're important, because if what you're saying in your letter is the perception in the community that this is what Bill 142 does, it's important for us to have an opportunity to clarify some of that as well.

I'd like to speak to the very point that my colleague Mr Kormos raised about workfare. I think it's important for people in this province to realize that Ontario Works, as being proposed by the government, involves basically three components.

Yes, one component involves employment placement, which would see employment-ready individuals who are receiving social assistance being helped to find full-time or part-time employment.

The second component of Ontario Works involves what is referred to as employment supports, which provide some basic training for people who perhaps need some upgrading of skills to get them to the point of being employment-ready.

The third component, which I think is probably one of the most critical components of Ontario Works, is the community placement component. We fully realize that the vast majority of people who find themselves on social assistance don't want to be there. They're not there because of their choosing. They're there because of circumstances in their lives. Many times they are kept there because of some barriers that are keeping them from actually transitioning back into the workforce.

The community placement component of Ontario Works allows individuals to participate in projects within the community that gives them an opportunity to meet people, to become active, to participate in some functions within the community that hopefully then will lead to a degree of self confidence and allow them then to perhaps do some additional networking that would result in the next step to transition back into the workforce. I can share with you —

The Acting Chair: Mr Klees, that's your time. Thank you very much for your contribution.

Mr MacLennan: If I can have a couple of seconds, I can understand your concern about the wording, but actually this letter was toned down. There's a lot of emotion out there and a lot of suffering, and I think the government should take its responsibility for creating part of that. The other part of it is that if you want to pay people decent wages, you'll get the credibility back far quicker than putting them on stupid programs with hardly any money. You couldn't live on that, and I don't think any of your family could live on those kinds of wages. We want decent wages, we don't want part-time jobs, and we want jobs that are interesting. We want to help put this country and this province back to work.

The Acting Chair: Mr MacLennan, time's up. Thank you very much for your presentation. We appreciate your input on this.

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OMBUDSMAN ONTARIO

The Acting Chair: I call forward Roberta Jamieson, the Ombudsman of Ontario. Welcome, Ms Jamieson. Nice to see you again.

Ms Roberta Jamieson: Nice to see you. Good afternoon, all. Bonjour. In my language, sago. I am very pleased to be here this afternoon to present my concerns about Bill 142 to this committee.

As Ombudsman for the province of Ontario, I deal with a broad range of complaints from individual members of the public who believe they have been treated unfairly in the administration of public service, as you know. As such, I have a responsibility to speak out when there is any threat to the continuing existence of the public's right of recourse to effective and independent complaint procedures.

As you may know, on a number of occasions recently, I have expressed my concern about the need to preserve this right of complaint at a time of massive restructuring of public service. In my annual report and in correspondence with government ministers and officials, I have raised this issue concerning changes involving privatization, the transfer of responsibilities to municipalities and other regulatory and legislative initiatives. Today I want to talk about specific concerns within the context of that general theme.

My concern is that Bill 142, as currently drafted, will negatively affect the right of individuals to seek an independent recourse of last resort when they have complaints about fairness in the administration of this act. My concerns are particularly heightened because of the powers that have been reserved for regulation, which are quite tremendous.

Under the existing social assistance legislation, many matters relating to benefit eligibility and amounts, whether under the Family Benefits Act or the General Welfare Act, are dealt with first by the Social Assistance Review Board. Ombudsman Ontario provides — I provide — a final opportunity for procedural review of those cases where people feel they have not been dealt with fairly by the Social Assistance Review Board.

For matters which cannot be appealed to SARB, the Ombudsman is a direct mechanism for complaint resolution, with investigative authority to review cases with the ministry or the appropriate family benefits office. I recently brought forward an investigation of this type in a case report to the Legislature and the standing committee.

My office is routinely called on to provide assistance to people where there has been a delay in the payment of family benefits, for example, if applications have been lost or misplaced by officials or where there are errors in calculating benefits or disputes regarding benefit entitlements. There are also cases where an investigation by my

office may result in a further review by SARB of decisions where relevant information was not given proper consideration.

That is the current situation. The question is, what happens under Bill 142? I have two specific concerns about the changes that are going to affect the jurisdiction of my office and the rights of people to have their complaints reviewed under the proposed legislation.

The first concern is about the list of exclusions from the authority of the newly structured appeals tribunal. Those exclusions can also be expanded by regulation. For example, under the previous system, under both general welfare and FBA, if you were denied emergency benefits, those could be appealed to SARB. Any complaints about how SARB dealt with that could be brought to my office.

Under the new system, any decisions respecting emergency assistance, including denial, are no longer appealable. Therefore, people would not necessarily be able to have an investigation of what happened, to have SARB reconsider, or the new tribunal, and to have that matter fixed. There are fewer matters that the appeals tribunal itself can review, and as a result, there's going to be a loss of independent complaint procedures to provide remedy where there is unfairness. These are the very cracks that people who are vulnerable can fall through.

The second concern is that the ministry will apparently be handing over administrative powers to arm's-length agencies, municipalities and regional service delivery agents, without any assurance, once again, that people will have recourse to an independent office if they are dealt with unfairly. It is unclear whether those organizations, those arm's-length agencies, will come within the definition of "governmental organization" and therefore within the jurisdiction of the Ombudsman. Just as the cracks in the appeal process seem to be widening, the safety net appears to be shrinking. In those combined circumstances, I think it's predictable that someone is going to be hurt.

Let me be clear. I am not telling the government not to transfer the administration of social assistance to the local or regional level. That's not a matter for me to comment on. What I am saying is that if government is going to initiate such transfers, it must take positive steps to ensure that people are not losing their right of access to a complaint process in the process. If these functions are going to be moved, the fairness safety net has to be moved with it.

Let me review what's at stake. The people who are affected by any changes to social assistance legislation are among the most vulnerable and disempowered people in our society. People rely on public assistance because they have been disadvantaged in some way, not because they want to. For many, as you know, this takes the form of a disability. All who rely on public support are potentially marginalized from society and often discriminated against for the very reason that they are vulnerable and not well equipped to resist infringements on their rights. There is also, of course, the social stigma attached to relying on the public purse.

Let me take a concrete example of what I am talking about. Under both the proposed and existing legislation, the social assistance administrators have the authority to order that benefits be paid to another person, even when the recipient is not legally incapacitated. The power to take away a person's control of his or her income is quite an extraordinary power. What is a person supposed to do if he or she disagrees with such a decision? Under the current family benefits legislation there is recourse for that person to file a complaint with my office about such appointments. Under the proposed bill, any such decision by a social assistance administrator may now become the last word — not reviewable, can't be investigated, can't be overturned and so on.

1610

Under Bill 142, the administration and decision-making in the delivery of social assistance can be delegated away from the ministry under this bill by means of regulation, designation and agreements covering local service delivery agents and others. Whether people would be able to have an effective independent recourse for unresolved complaints about treatment and decisions by these bodies is at this point unclear. It is therefore not possible to assess — because much of this is left to regulation — where those people will be able to go or if they'll be able to go to the Ombudsman or somewhere else until the regulations and the agreements are put in place, but by then, it may be too late. That's why I'm speaking out today.

What I want to emphasize today, in view of these uncertainties, is this: There should not be a lower standard of accountability for fairness for people who are poor or disabled or otherwise disadvantaged. In the absence of explicitly maintained complaint procedures involving an independent body, there is no way to avoid the reality of double standards and inequitable treatment for people in receipt of social assistance.

It is important, therefore, that the Legislature send a clear message about its intention to maintain the public's right of complaint to an independent body such as the Ombudsman. The bill should be amended to explicitly ensure that members of the public continue to have an effective right of complaint with respect to the delivery of social assistance, no matter who or what kind of organization is administering it. For example, the bill could be amended to clarify that service delivery agents and others administering the provision of public benefits under this legislation are governmental organizations for the purposes of the Ombudsman Act.

If the Legislature is going to approve changes that move the direct administration of social services away from the government, it should make explicit provisions to make sure that the fairness safety net follows along with it. Without such protection, people who are already vulnerable will be further disadvantaged.

I'd be pleased to answer any questions you may have.

The Chair: Thank you very much, Ms Jamieson. We would love to ask you questions. Unfortunately, you have used up your time. We're very grateful for your appearance here today.

METROPOLITAN TORONTO
SOCIAL SERVICES DIVISION,
COMMUNITY SERVICES DEPARTMENT

The Chair: I call upon the social services division, community services department, municipality of Metropolitan Toronto.

Interruption.

The Chair: Sir, thank you very much. This committee, however, is open to hear all points of view, and Mr Chong has every right to be here to make the presentation.

Mr Chong, I wonder if you might present your co-presenters for today. You have 15 minutes for your presentation.

Mr Gordon Chong: Thank you, Madam Chair. I'm flanked today by Joe Manion and Eric Gam, who will assist me in the event that committee members have questions that would delve into further details of our position. As the chair of the human services committee, I am pleased to be here on behalf of Metro. I am going to focus both on what we believe are the best aspects of and our concerns about the new legislation. I will also discuss its potential implications for Metro and make recommendations that we believe will improve the legislation. Relevant reports from Metro are attached for your information.

Metro Toronto commends the province for introducing new legislation and for the overall policy direction of the reforms, namely, the integration of employment assistance and income support under the Ontario Works Act and the creation of an Ontario Disability Support Program Act. However, there are significant details that still have to be addressed. Since the regulations are not yet available, I can only make general comments about some of the key areas in the legislation. Therefore, Metro's first recommendation is that the province immediately provide municipalities with an opportunity to have input into crafting the regulations.

Second, a note of caution. The new legislation implies clients can be easily divided into two basic groups: employable people served under Ontario Works and disabled people who will be eligible for the disability support program. The real world is more complex. Many people who will be eligible for Ontario Works have barriers that will make it extremely difficult for them to find and keep jobs, even in a strong job market.

For the first time in Canada, a provincial government has legislated a dual priority for a social assistance program: to promote independence through employment and to provide financial assistance. The act clearly recognizes that the Ontario Works program must actively assist people to find and sustain employment and provide supports to allow them to do so. This is wholly consistent with Metro's long-standing efforts to provide employment supports to social assistance clients. A number of other positive features are discussed in the attached council report. I'd like to focus now on some of our concerns.

People 60 to 64 years of age: After January 1, those 60 to 64 applying for social assistance will only be eligible under the Ontario Works Act. The inclusion of this group

is not consistent with the basic thrust of the program. This group's benefit levels were not reduced in 1995, presumably because older workers would not be able to make up the difference by increasing their employment earnings. This assumption is still valid. The reduced allowances provided under Ontario Works will only increase hardship for these workers. A single person on FBA receives \$930 per month versus \$520 for a person on GWA. Therefore, the grandfathering provision, which rightly protects the benefits of people aged 60 to 64 now receiving FBA, sets up a clear inequity with new applicants, who will receive lower benefits.

Given Metro's highly competitive labour market and continuing high unemployment rate and the well documented barriers facing older workers, we don't believe 60- to 64-year-olds should have to participate in mandatory Ontario Works activities in order to receive income support. People in this age group who want to work can do so under existing provisions which allow clients to voluntarily participate in community or employment placements. For these reasons, we recommend that people aged 60 to 64 should have their benefits retained at current FBA levels and be exempt from mandatory OW participation provisions.

Metro Toronto is also extremely concerned about the health and welfare of children living in our community, a concern clearly reflected in First Duty, the Report of the Metro Task Force on Services to Young Families and Children. The report begins from the premise that children are our most vulnerable citizens. In this light, Metro council strongly supports several key changes to the act which will benefit children.

Metro has long believed foster children shouldn't receive income supports through the social assistance system. For many reasons, foster children often have needs which can't realistically be met by municipal delivery agents. Although these children require a range of critical supports besides income assistance, no formal child protection service is provided to them. The end result is heightened risks for an already vulnerable group. Under the new legislation, benefits for foster children will be provided under the Ontario Works Act. Metro believes it's completely inappropriate to use this program to assist this small group of children. Metro strongly recommends that services for foster children, including income support, be provided in an integrated way through the child welfare system.

Since all single parents will now face participation requirements, the need for sufficient quality child care will increase. Unless significantly more resources are added, their needs won't be met.

Metro is also deeply concerned that parents with children under six will be compelled to participate in Ontario Works. Families are increasingly facing greater pressures, and more than ever, we recognize the importance of a stable family life for young children. To manage service demands within the funds currently allocated to child care support for the Ontario Works program, we recommend

that mandatory participation requirements exist only for parents with children six years or older.

Under the new legislation, the profile of Metro's Ontario Works caseload will change substantially, since single parents, people with medical problems and others who were previously considered permanently unemployable will now be eligible under Ontario Works. Many people in these groups will require intensive supports and programming to assist them in finding jobs. Some with extreme barriers will simply not be able to participate in mandatory activities. For others, preparations for employment or for placements will require longer time frames and higher costs than is the case for people who have recently worked.

1620

Metro is also concerned that there will be significant administrative overlap if the province delivers the ODSP but persons with disabilities have to apply through the Ontario Works offices. Access to the ODSP for persons with disabilities will clearly require that the province and municipality work jointly to streamline the delivery system.

Now the positive features of the ODSPA. Metro strongly supports the directions of the new Ontario Disability Support Program Act. There are a number of specific provisions that represent an improvement over the current program, which are more fully described in the attached report that council produced. However, Metro is concerned about the new definition of disability. The act provides for a new, more restrictive definition of disability. We are concerned that substantially fewer people will be eligible for assistance than is currently the case under FBA. Those not eligible but who need financial assistance will have to apply under Ontario Works. Based on our experience, a number of these individuals may not be able to participate in mandatory Ontario Works activities.

Metro strongly recommends that the province make provision in the Ontario Works program for permanently deferring mandatory participation requirements for the increasing number of eligible people who cannot be expected to find employment or who face multiple barriers to employment.

The Ontario Works Act provides for the establishment of regulations for the provision and delivery of emergency hostel services. No further details are now available. In the past year, demand for emergency hostels has increased sharply in Metro, particularly in the family and single men's parts of the system. Metro has the substantial majority of the emergency hostel capacity in the province and a hostel system which provides shelter to people with diverse needs. For these reasons, it is critical that the province inform the municipality about its plans for hostel services and that Metro have an opportunity to advise the province on all relevant regulations.

Now some comments on the social assistance reserve fund. Municipalities have no capacity to influence changes in the economy. But social assistance caseloads are directly affected by changes in the business cycle. It is critical, therefore, that there be a legislative mechanism

for municipalities to deal with the next recession. To ensure that such a reserve fund is available, this measure must be enshrined in legislation.

The GTA equalization proposed by the province for social and health services is welcome, but it deals with intraregional disparities, not with cyclical fluctuations in the economy.

Two issues are very important to Metro in this area. First, Metro strongly believes that the province should retain full responsibility for funding ODSP benefits and administration costs. Municipalities should not be required to fund a program delivered by the province. Second, although it has not yet been determined what administrative costs will be eligible to receive 50-50 cost-sharing under the new legislation, Metro strongly recommends that all administrative costs should be shareable. Minimally, current arrangements should be retained.

Metro's sizeable caseloads and the fundamental reorientation of the social assistance system under the SARA will result in a complex transition process. SARA establishes transitional provisions, but detailed implementation planning cannot proceed until regulations are released. Yet Metro must immediately address the operational issues required to facilitate the transfer of FBA cases. Therefore, it is essential that the province expedite the transfer process and rapidly initiate discussions at the staff level.

Given the costs associated with implementing the new legislation and the broader Who Does What panel recommendations, Metro also strongly recommends that the province fund municipal transition costs at 100%.

The province must be commended for proceeding with a number of overdue changes to the legislation governing social assistance. However, as I have stressed, Metro believes a number of key changes must be made to the new legislation if it is to work effectively. Because the new legislation is deliberately general, many critical questions remain. Municipalities urgently need information so they can assess the implications of changes that will occur in numerous areas. Metro strongly recommends that the province make all information related to critical policy, administration and delivery issues available as soon as possible.

The new legislation is vitally important to Metro. Ontario Works is a critical support for people who lose jobs or who need help to re-enter the labour market. At the end of the legislative reform process, Metro Toronto must have the resources and flexibility to develop and deliver Ontario Works in a way that meets our residents' needs.

The Chair: Thank you very much, Councillor Chong. We have about a minute per caucus. We'll begin with the third party.

Mr Kormos: No thank you.

The Chair: All right, the Conservative Party; still one minute.

Mr Carroll: Thank you very much, Mr Chong. Just to clear up something from yesterday you may not have been aware of, the minister realizes that there is maybe some confusion with the definition around disability, and she's

prepared, she said yesterday, to look at changing the language so that it does reflect the government's policy position, which is if there is substantial restriction in any one of the three areas. The current definition says "and" and "and." The intention is that substantial restrictions in any one of the three areas would qualify somebody to be considered as having a disability. We are prepared to clarify that in the final clause-by-clause analysis of the bill. I just wanted to make that point.

Mr Chong: I appreciate the clarification.

Mrs Pupatello: I take it from the PA's comments that there is an amendment that will be tabled. That was a question that arose yesterday, that if it's coming, we should have it while we're having these hearings so that the groups coming to present know exactly what the intent is, by actually putting it in the bill.

I have a question for Metro people here. Have you begun your fingerprinting process yet? No? Do you have any idea what the cost associated with that is going to be, just for Metro?

Mr Eric Gam: In so far as direct costs to Metro are concerned, there will be none, because the structure of the agreement with Citibank is that the bank will receive its payments out of the savings to Metro. There will be a cost to Citibank, but not to us.

Mrs Pupatello: Savings from what?

Mr Gam: From the fraud that is eliminated or from other administrative savings that we currently incur in the management of the caseload.

Mrs Pupatello: What is your estimated fraud and mismanagement?

Mr Chong: The staff reports have always minimized the amount of fraud. The estimates vary anywhere from 3% to 20%. I would suspect that nobody would ever overstate the amount of fraud in the system; I suspect more often than not it's understated.

Mrs Pupatello: Could you give me a number, the actual number?

Mr Chong: Our caseload is 92,000, in that neighbourhood.

Mrs Pupatello: As to how many millions? Is it likely that entire amount — let's say the savings, because of what you found was, I don't know, \$15 million. Would that then be the Citibank fee?

Mr Gam: No. That's not the way it's structured. I don't have the details at this moment.

The Chair: Mrs Pupatello, unfortunately we're out of time. We can perhaps pursue this some other way.

I want to thank you, Councillor Chong, with your colleague. Unfortunately, the time just isn't enough to pursue some of these issues.

ROOMERS' RIGHTS TORONTO

The Chair: I ask the Roomers' Rights Toronto to come forward, Mary Taylor. Welcome, Ms Taylor.

Ms Mary Taylor: Thank you, Madam Chair. My name is Mary Taylor. I am here today representing Roomers' Rights Toronto. Our organization has been working

for over 15 years to secure both maximum legal rights and optimum quality of life in the area of housing. Initially, our membership consisted of rooming-house tenants and the homeless, shelter-using and deinstitutionalized populations who used this type of housing to a significant extent. More recently, our membership has expanded to include tenants of public housing, with the result that we now represent all the populations of the lower-income as well as the more marginally housed sector.

Over the years of our activity to date, Roomers' has made real and concrete gains in the area of landlord-tenant legislation. You have heard from many individuals and organizations speaking for the needs of various specific groups within the population and/or for all the people of Ontario. They addressed the needs of these groups in terms of the nature of the content of the proposed legislation and/or the possible impact of this on the current real-world context.

If and when a government disregards such input when it goes to pass legislation, our basic assumption is that it will clearly state that this decision is founded on a broader-based and more accurate understanding of what the people of the province feel to be the best social system than was embodied in the input they saw fit to dismiss. The assumption is that the majority of people who can reasonably be considered have spoken and been heard. At the same time, the issue of whether people have been heard is also being addressed when the contents of proposed legislation and related issues are being discussed, as we mentioned above. For at least some intents and purposes, these are just two different angles from which to discuss the same basic realities.

1630

One of the largest and most distinct populations represented by our organization is the Regent Park public housing development. The extent to which particular populations can be said to have been heard by government and the larger population can be significantly affected by the extent to which these populations are oriented towards participation in such institutionalized indicators as elections and public opinion polls. Regent Park is known to have a voter turnout significantly below the average for the rest of the city. As such, it is rather unlikely that they, among other parts of the population we represent, really have been heard by this larger community on this, among other issues.

The assumption that we have been heard becomes even more unlikely when we look at the fact that what our community has expressed to us about social assistance and disability issues is much closer to existing legislation than to the proposed legislation.

But that people have been heard is not the only issue. In the assumption that a given group of people's voice should be heeded when legislating social structures, there is the implicit assumption that these people are capable of a mature and reasonable consideration of the opinions they are voicing.

The people of Regent Park have achieved at least two very major accomplishments that continue to elude the rest

of the general population. They have achieved a highly viable, extremely close-knit sense of community and an openness of communication, and during the earlier part of this decade, they achieved a considerable reduction in problems of crime and personal safety. The rest of the eastern downtown area and substantial parts of the western downtown share these comparatively serious personal security concerns, but even with one of the better systems of neighbourhoods in North America, they remain part of a large city. They have not achieved a truly small-town, old-world degree of social cohesion from which viable community policing, among many other vital services, draws so much of its strength.

What too many people in the general population cannot and will not understand is that the population of Regent Park, like the many new Canadian cultures which form a significant proportion of its population, is a different culture, clearly not inferior and, in some of the most crucial areas, far and away superior to segments of the population who have much higher levels of formal education and/or employment.

Regent Park, although very distinct, is in varying ways representative of the larger population which constitutes our organization's membership. But one assumption that once again we are probably dealing with on the subject of our population at large is that it is fairly heavily concentrated in Toronto, in the downtown area and in particular parts of the eastern part of downtown. If this were true, there is a limit to which legislation, if it is to be seen as necessarily representative of a majority of the involved geographical territory, could reflect the voice of this population.

If you look at American cities, you will see that the population groups in the downtown core are not substantially reflected as you pass out into the suburbs. This assumption, when applied to Toronto, proves substantially false, as is the assumption that similar groups to these concentrations in downtown Toronto are not substantially represented in at least the larger cities of Ontario, which, together with Toronto, constitute two thirds of the province's population.

The final assumption in determining whether a given population's voice, even if heard, should be heeded in making legislation is the assumption that you will know instantly or in fairly short order if they have a strong opinion on something, or at least that they should be expected to express this in reasonable time.

When the idea of a megacity-type amalgamation was put to the people of Hamilton-Wentworth, they voted against it by an average of 93%. The government's response was to back away from the legislation, as it has been much more recently with a substantial part of Bill 136.

I am very strongly assuming that no one knowingly puts themselves in a position, regarding any large or significant issue with which they have associated themselves, of having either to publicly back down on their own proposals or to face, presumably, larger consequences, which is to say of course that if people have put themselves in this

less than enviable position, either they couldn't have known they were doing so or in some degree chose not to know.

One of the most basic realities of a democratic society is that input from a particular population within the larger community has been effectively consulted when and in the precise form in which it chooses to present itself.

The people of our organization's constituency, not unlike the people of Hamilton-Wentworth, among many other parts of the province, are substantially poor working people or people who for a shorter or longer period of time have required various kinds of assistance to put them back in a position where they can have the self-respect of working. I don't think I could even imagine the openness and cohesion which Regent Park can achieve at the centre of a metropolis of over two million people if I hadn't experienced it. Through this remarkable network, they and, each in their own way, all our other populations have clearly expressed that they were much happier, if not perfectly happy, with the spirit and the letter of previous social assistance and disability legislation than they are with the proposed Bill 142.

Not so unlike the people of Hamilton-Wentworth, our constituency is a large and diverse but at the same time smaller and probably more focused population than is found in the larger city. If the spirit of what they are expressing is not embodied by the time amendments to this legislation have all been dealt with or by the time all or at least a substantial portion of the regulations implementing it have been dealt with, the remaining mandate of the present government will be fairly short.

A large, viable, even geographically well-distributed proportion of the province's population may well express itself within itself through various channels, including some as personal as extensive, friendly and extended family connections. But if we wait for this population to express itself by someone else's definition of sufficient and viable means, as far as the ideal of a continuation of the present government's mandate into another term of office is concerned, we may very well have waited until it is too late.

The Chair: We have about five minutes left, so just over a minute per caucus. We begin with the Conservative caucus.

Mr Carroll: Thank you very much, Ms Taylor. You talked at the beginning about the people in Regent Park, whom you obviously represent very well, preferring the existing legislation to the current legislation. Could you give me a couple of specific examples where something in the current legislation is preferable for the people of Regent Park than what we're proposing in Bill 142?

Ms Taylor: I guess part of the point is that the intent of the deputation is to complement the sum total of what other deputations have said about, I could almost say "specifics." The point is that the main issues that are troubling most people have been repeated a significant number of times. On the whole, there is really something of a handful only of very significant issues.

I could tell you specifically that basically just making things more difficult, making things less friendly towards people who require welfare, family benefits and/or disability assistance is something of a concern. They certainly do not like the idea of various considerations such as investigators having police powers, being able to charge people who are friends and associates if they do not divulge information about the welfare recipient and all these heavy-handed kinds of policing, as they see it. Basically, people would like to stay with a system which maintains various kinds of workplace and labour legislation, which as nearly as we can see are going to tend to be removed. They don't want people on welfare and other kinds of assistance and/or programs related to these to have to endure any kinds of conditions that are considered undesirable. They basically do favour a continuation of the existing labour legislation and/or more consultation with our population, among others, if there are going to be changes in this.

1640

Mr Carroll: Can I just clarify one thing? In the police powers, all the investigators will have is the right to request a search warrant, which will still have to be granted by a justice of the peace, so it's not a carte blanche. A justice of the peace will still have to grant the search warrant.

Mrs Pupatello: If I may clarify the parliamentary assistant's comments just now, the act actually reads "act under a search warrant." It doesn't just say "apply for"; it says "apply for and act under a search warrant." Parliamentary Assistant, you really need to know the bill we're discussing here. That is in the bill.

I would like to ask you a question. In the Regent Park area, how many people own property that would be affected by the liens?

Ms Taylor: There was a discussion of this by Melodie Mayson of Neighbourhood Legal at our most recent general meeting. The problem is that people aren't altogether clear on what will and won't be affected. People say: "Maybe it will be real estate, large property like a house. Maybe it will affect people more in rural areas." She discussed a number of those issues. It's partly a question of how everyone defines it and how clear the definition is.

Like so many other things I've heard from her, and I understand from any number of people, there is so much that's going to be going under the regulations that it's very hard to know and at the same time to effectively be discussing it in as open a process as we have here with the legislation and clause-by-clause amendments to the regular legislation.

Mr Kormos: Thank you kindly, Ms Taylor. I preface this question to you by pointing out that the minimum wage here at Queen's Park for MPPs is \$78,000 a year, and most make more than that because they get paid extra amounts as parliamentary assistants or cabinet ministers or chairs of committees etc, so only a handful make the minimum wage of \$78,000. In October 1995 the government slashed benefits by 21.6%. It was a few weeks

thereafter that they increased MPPs' salaries by around 10%, \$7,000 to \$8,000 a year gross.

I note that the maximum shelter allowance for a single person is \$325 a month. If any of us are out there living in downtown Toronto — mind you, I understand many people have to raid that budget to feed themselves.

Ms Taylor: Or beg on the street too.

Mr Kormos: Let's assume that I had all of that \$325 a month to house myself, what kind of housing am I going to find for \$325 a month? It's important that you explain that to us.

Ms Taylor: It's not expected to be very good, if you're going to find any housing at all. People can choose between being housed and eating and they can beg on the street.

Mr Kormos: You mean you have to choose one or the other?

Ms Taylor: Choose one or the other because of the amount of money you have. Begging on the street is grueling, 16 hours a day, plus there is constant talk about bringing back police powers in connection with old vagrancy laws and so forth to sweep through and effectively cut the jugular of that means of support, over and above which the people will actually be put into jail for begging on the street, because it will become vagrancy.

What is available? A lot of rooming-house stock has been lost over the past 10 years. There is a lot of concern about this among the rooming population and at various city of Toronto rooming-house-oriented bodies such as the alternative housing subcommittee and also several special bodies in relation to rooming-houses only. They've lost a lot of rooming-house stock, and they're concerned about continuing to lose it. They would like to be able to make use of abandoned buildings, so right now Councillor Jack Layton is pushing an amendment through Metro council called "Use it or lose it," which means that developers and speculators may not hold on to empty buildings over long periods of time while they are waiting for the value to appreciate such that they can make the maximum use of them. They have to make them available as low-cost housing so as to get people off the street and to make up for the rooming-housing stock that has been lost over a period of time.

The Chair: Thank you very much, Ms Taylor. We appreciate your being here today.

Mrs Pupatello: I have a question for the table, Chair. May I have clarification from the ministry staff that specifically discusses law enforcement, which is what the schedule in fact is entitled, in subsection 57(4), "Persons engaged in investigations for the purposes of this section...shall be deemed to be engaged in law enforcement." That is the section. It goes on to discuss, in subsection 58(2), "the prescribed powers including the authority to apply for and act under a search warrant."

Could the ministry officials confirm that in fact they are deemed to be law enforcement agents? Prior to the parliamentary assistant's comments today, that was the ministry's position, but Mr Carroll's comments indicate that may in fact not be the case. I just need to know that they

are being called "law enforcement agents," as is indicated, and that they do have the purpose "to apply for and act under a search warrant," with all that entails for civilians who will now have the power of police officers.

The Chair: Can we have that clarification?

Mr Carroll: Yes.

Mr Kormos: Further to that very same concern, the Chair and the committee will know that "delivery agent" is the term used, and it appears to be similar to the terminology used, for instance, in Bill 84, with the firefighters' act. Could we have confirmation that "delivery agent" could include a privatized delivery agent, to wit, Andersen Consulting or any other privatized, for-profit delivery agent?

The Chair: So noted.

CANADIAN CIVIL LIBERTIES ASSOCIATION

The Chair: I ask Alan Borovoy of the Canadian Civil Liberties Association to come forward. Welcome. We're delighted to have you here.

Mr Alan Borovoy: First of all, I'd just say I'm delighted to be had here.

The Chair: We hope you're not being had here, Mr Borovoy. Please introduce your copresenters.

Mr Borovoy: I have on my right, Stephen McCammon, and on my left, Andy McDonald-Romano. They are more than just bodyguards.

A good lawyer always begins with a disclaimer, and I suppose I should do that as well. While we very much appreciate the opportunity to appear here today, we were not on the original list and unfortunately didn't find out until after the office had closed yesterday that we could be on today. As a result, the few items that we are able to address today are attributable not only to the shortage of hearing time but also to the shortage of our preparation time. I hope you will indulge us that much.

Also, there are other issues we have raised in other contexts, such as the spouse-in-the-house rule. In order to save time, we'll save that for any questions anybody might have of us.

For today, we would like to identify a few issues where, in our view, Bill 142 would appear to reject well-accepted principles of civil liberties in our society.

The first principle refers to essentially what we call the right to a hearing. For the past number of years, the welfare law has generally required that welfare claimants be given an opportunity to make representations before they suffered an adverse decision. Indeed, this feature of the law has been a feature of our general law probably since the days of the Magna Carta. Inexplicably, Bill 142 has dropped this requirement entirely. We urge you to put it back in.

Secondly, there is a provision in this bill that would require the director or the administrator to extend the period of ineligibility in the event that a welfare claimant failed to comply with a condition of eligibility. The provision requires an extension of the period of ineligibility; for how

long, we do not know, because that is left to the government to make regulations about. It is not in the bill.

1650

Another difficulty with this is that this would appear to be a form of gratuitous punishment. Why is it necessary to have a provision like this? If a claimant breaches a condition of eligibility, that claimant can be denied a benefit. Why must there thereafter be a lengthy period of ineligibility? This would appear, in our view, to constitute gratuitous punishment.

Bill 142 is not confined to the issues that arise on the front levels; it also would encumber the process of appeal. It's important to realize just how central the right of appeal is. It's largely because welfare administrators are seen as representing the interests of budgetary restraint — in any administration; I'm not talking about this government or any other. That's the role that welfare administrators are perceived to play. The appeal may be one of the few semblances we have in the system of independent adjudication.

Here we see the bill provides for a period during which there must be a mandatory internal review. Again, we don't know how long this period can endure. That's left to the regulations. But also the bill fails to provide a measure for interim assistance during this period. So the way it stands, you have a situation in which welfare administrators may unilaterally deprive welfare claimants of their subsistence income for unacceptably long periods. It's small consolation to be vindicated at the appeal level. Even if the appeal grants retroactive payment, it's small consolation. Retroactive assistance cannot provide retroactive sustenance. That is the problem you face with that kind of provision.

Another area in which the appeal process is regrettably encumbered is the list of items for which there will be no right of appeal. One of them, I must admit, jumped off the page at me. I will mention only that at the moment. That is the provision wherein the administrator can appoint someone to take over a welfare claimant's affairs, to act as the welfare claimant's representative. In the general law, we have a number of important safeguards to minimize the risk of encroaching improperly on the autonomy of competent people. In the welfare law, there isn't going to even be a right to appeal the decision of the interested party, the administrator of welfare.

Finally, the provision with respect to overpayment: The existing welfare law attempts to limit the circumstances in which the administration can recover overpayment. Under the bill, it would appear that there will be no limits at all; there will be a virtually absolute liability on the part of claimants to repay whatever the overpayment might be.

We would have no objection if the power to recover were limited to situations in which a claimant falsified information, misled the authorities, failed to include something new, if the claimants knew they were getting more than they should get or they should have known they were getting more than they should get. But what excuse is there to say that they can be nipped for overpayment even if their behaviour in the circumstances was com-

pletely devoid of culpability? Under the existing law, there is a defence; even in a commercial transaction, there is a defence available to people if they receive overpayments. Why should the welfare law, of all the areas of the law, be devoid of this kind of protection for the most vulnerable people in our society?

On the basis of all these things and, I regret, much more, we would urge that this bill be amended, all of which is, as always, respectfully submitted.

The Chair: Thank you very much, Mr Borovoy. Of course, given the time constraints, your association could certainly feel free to send some further thoughts to the committee. We'd be happy to receive them.

Mr Borovoy: In writing and telepathically as well.

The Chair: Telepathically, if you can manage it.

We have just over a minute per caucus. We begin with the Liberals.

Mrs Papatello: Thank you for coming today. It's nice to see you here again. May I read to you a quote that the minister outlined in her speech when she began these hearings yesterday?

She said that she has had criticisms that do not reflect what is actually in the bill, spreading misinformation and causing needless fear to clients and beneficiaries. She said that one of those areas is the right of appeal, as another example. She says that's simply not the case and that while doing all these streamlining things, "these proposals will be less onerous for the recipient, while protecting their rights of appeal." Yet you've outlined a number of areas where that simply is not the case.

Why would the minister purposely mislead us? She clearly feels that the right of appeal is intact. We have example upon example where that simply is not the case, and she spent some time to ensure she got on here yesterday to tell us about the misinformation that apparently was there.

The Chair: Ms Papatello, I have allowed you to finish the question, but I must ask you to withdraw your unparliamentary language.

Mrs Papatello: I don't think those same rules apply in committee as they do in the House, Chair.

The Chair: I think they're going to, Ms Papatello.

Mrs Papatello: Why would the minister purposefully give out misinformation? Is that better?

Mr Borovoy: Perhaps my reply can spare you this exercise. Despite my self-proclaimed powers of telepathy, I'm not clairvoyant. I am not the best person to answer for the minister. Perhaps the minister can be asked these questions.

Mr Kormos: Thank you, as usual, Mr Borovoy. You talked about the payment to third parties to act as — again, I use the phrase "quasi-trustee," but that's not appropriate either, because as you pointed out there are a whole lot of safeguards when a trustee is appointed.

What about the subsequent section, section 18? "A portion of basic financial assistance may be provided directly to a third party on behalf of a recipient if an amount is payable by a member of the benefit unit to the

third party for costs relating to basic needs or shelter, as prescribed."

I understand, and we just heard from Ms Taylor, that many people have to make the choice between paying the rent or paying the greengrocer. This seems to be a unilateral power on the part of welfare to take care of the landlord, even if he's a crummy landlord, or to take care of the greengrocer — which I suspect is less likely to happen — even if he or she is a crummy greengrocer. Will you comment on section 18?

Mr Borovoy: In our view, welfare claimants should have the same right to grant and withhold their rent allowances and anything else as any other member of the public, to use it as an instrument of pressure in their dealings with landlords the same as any other member of the public. Even if we were to assume that there may be some situations in which a power to pay landlords directly is warranted — and there may be some situations in which this would be valid — it is not valid to deprive the claimant of a right to appeal that decision. That, in our view, has got to be the key civil liberties issue here. Take over the payment in some respects if it be necessary, but for heaven's sake, let the person challenge the decision before some kind of independent adjudication.

1700

Mr Terence H. Young (Halton Centre): You were concerned about what you call "the punitive section," that someone who had abused the system would then be ineligible for a period of time. What I'd like to ask you is, would you agree to any sanctions? What sanctions would you agree to to discourage someone who was so inclined? What sanctions are there other than to make them ineligible?

Mr Borovoy: I think we have to be careful as to what we're talking about. If you are talking about wilful violations of the law, then welfare recipients are as susceptible as any other member of the public to the criminal processes or whatever other comparable processes there might be.

Mr Young: So you're suggesting if someone's caught cheating on welfare, they should go to jail?

Mr Borovoy: Wait a moment, I haven't finished; if I may just finish. If you are talking about other situations, where you're not talking now about wilful violations of the law but you are talking about the failure to comply with conditions of eligibility, which is not a criminal or a quasi-criminal act, why is it not sufficient simply to cut the person off because that person breached a condition? Why isn't that an adequate sanction? Why does it have to be, "Not only will we cut you off today, but you're going to be cut off for the next six months"?

The Chair: Excuse me, I have to cut it off.

Mr Borovoy: I would just like to finish. I would like to answer that, because I think it is an important question. I think it's fair ball if you want to have short periods where procedurally you want to guard against the person just coming back every day, every hour, every minute. There's no objection to some sort of breathing period so you don't get overrun with the same applicant day and night. If

that's all that's envisioned, there would be no problem. But then you don't need a provision as open-ended as this, and you don't use the language — indeed, if I might suggest as you did — of deterrence, because that is punishment. If all you're trying to do is have a breathing period, of course there's no problem with that.

Mrs Papatello: I was going to ask for unanimous consent because I would very much like to have Mr Young continue his line of questioning. If we could allow for, say, five or 10 extra minutes, if Mr Borovoy was prepared, I would like Mr Young to continue that line.

Mr Young: On a point of order, Madam Chair: You made a ruling several minutes ago that Ms Papatello had to withdraw her comment. She still hasn't withdrawn it.

The Chair: One thing at a time, please. We have a request for unanimous consent. Is there unanimous consent? There is not unanimous consent. Mr Borovoy, I regret we don't have more time with you. The parameters of the government's time allocation —

Mr Borovoy: And I was going to write Mr Young into my will.

The Chair: You may want to continue the discussion outdoors. Thank you very much to you and your colleagues for coming here on such short notice.

Mr Young, to deal with your question, I did make a request of Ms Papatello to withdraw her remarks.

Mrs Papatello: I'm sorry it wasn't on record. I did withdraw and struggled to find language that could clearly express what I was thinking.

The Chair: Just a withdrawal will do fine.

ONTARIO DENTAL ASSOCIATION

The Chair: The Ontario Dental Association, Dr Jack Cottrell and Frank Bevilacqua. Welcome, gentlemen. Thank you very much for appearing before this committee. You have 15 minutes to make your presentation. We're going to try to stick to that 15 minutes. That's as much a comment to the members of the committee as it is to anyone in the audience.

Dr Jack Cottrell: I'm here in my capacity as president of the Ontario Dental Association. With me today is Frank Bevilacqua, the ODA's director of government relations.

On behalf of the dental profession, let me commend you for taking the much-talked-about step of reforming Ontario's social assistance system. Since Transitions, the report of the Social Assistance Review Committee, or SARC, the ODA has been involved with all government consultations. In general, the ODA has been supportive of the recommended direction of reform articulated in various government reports, particularly as it relates to the provision of dental care. Most would agree that reform is needed.

To illustrate succinctly concerns expressed by the dental profession and many others, let me quote from the 1988 SARC report: "There is confusing overlap between the programs offered through social assistance and those offered through the Ministry of Health. Overall, the varied

access to dental services was a major source of complaint during our consultations."

Now, nearly a decade later, this situation remains unresolved. Inequities exist between various provincial and municipal dental care programs and the children in need of treatment program, under the acronym CINOT. We are encouraged by your resolve to address these fundamental problems, and we want to provide some solutions to assist you in the provision of dental benefits. Under the CINOT program, both dentists and public health staff identify eligible children. The program is administered through public health units.

I wish to relate a recent incident where a dentist wrote to the ODA and asked us to address a problem inherent in the CINOT program. In his area, the dentist treats children covered by both the Perth and Wellington health units. After being diagnosed by the dentist, patients were then requested to attend the public health unit to be rescreened. The Perth health unit asked the parent and child to drive in excess of one hour. In the case of the Wellington health unit, the parent and child did not have transportation to drive to Fergus. The dentist wrote, "I feel that making these patients travel excessive distances to be rescreened for treatment plans already diagnosed by myself is a ridiculous duplication of services, which is totally unnecessary and appears to be more of a make-work program for public health rather than serving the best interests of the patient." We agree with this dentist.

Under this system of costly micromanagement, this is not an isolated occurrence. We are here to advise you of a better way to deliver dental care under government programs. To be effective, dental programs must be based on a clear statement of purpose, one that will allow the determination of appropriate levels of care for people in our communities. Bill 142 affords the provincial government an excellent opportunity to extend uniform provincial and municipal dental programs and administration across Ontario. Consistency will ensure that eligible recipients can access the same level of care, regardless of what level of government offers the program or where they live in Ontario.

However, you should be forewarned that the potential also exists for a myriad of different programs, administered in a multitude of ways, to flourish under Bill 142. This ad hoc system would not be in the best interests of government, recipients or the dental profession. The ODA has a long record of working in partnership with governments to meet society's collective responsibility to people in need. At times, the tendency is for governments to increase demands on volunteers. Delivering basic requirements in this manner is not efficient, effective or appropriate. A partnership requires a substantial contribution by each party.

In communities across Ontario, the dental profession continues to subsidize heavily the care provided to social assistance recipients and other low-income Ontarians. In fiscal 1996-97 alone, Ontario dentists subsidized provincial dental care programs by over \$35 million. Dentists also make a substantial contribution to consolidated reve-

nues, from which these programs are funded, through payment of personal and business taxes. Governments should uphold their responsibilities for maintaining and funding the provision of adequate levels of benefits to those most in need.

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Dentists wear a number of hats. The ODA acts as advocate of populations at risk and an innovator of programs and services to meet evolving individual and community needs. Dentists also deliver diverse and responsive dental care services. In part, the ODA's mission is to promote the attainment of optimal health for the people of Ontario. Accordingly, the ODA believes that a basic level of dental care should be available to all beneficiaries of municipal and provincial health and social health programs on a mandatory basis.

The ODA recommends extending the current government-ODA delivery model. This model, which has proven to be cost-effective, is focused on patient needs and is used now for provincial and various municipal welfare and children's aid society dental programs.

The government-ODA model avoids costly micromanaging inherent in CINOT and independent municipal welfare programs by establishing limits, controls and objectives, such as the nature and frequency of treatments covered, at the outset through plan design.

Your commitment to provide a basic level of dental care to individuals covered under the Ontario disability support program and all those under 18 years of age through the Ontario Works Act program is to be commended. We appreciate the difficult policy choices governments are faced with, but we believe the government has a responsibility and a unique opportunity to provide mandatory emergency dental care for adults under Ontario Works. This would make the road out of welfare easier for those who succumb to oral health problems.

Allowing municipal discretion to provide dental services to adults will only perpetuate existing regional inequities and inconsistencies. Indeed, it could lead to the elimination of dental care programs for adults, including seniors previously covered under FBA. This is not an objective we should strive towards, and under consolidated delivery of dental benefits it is avoidable. We should not return to an era where the less fortunate in society have to ask for charity.

Continuing with the current government-ODA model would make the transition seamless, with no interruption of services to recipients under current and future programs. Many governments and agencies already recognize the benefits of this uniform delivery system.

The opportunity is clear. Consider the following: consolidated and uniform dental care programs; well-designed dental care programs to control costs and levels of care; consistent access and effective administration; streamlining and eliminating duplication; directing the maximum amount of limited public dollars towards direct patient services; a guarantee that at least 95 cents of each dollar go directly to patient care; integration into the community, avoiding stigmatization; access to the highest-quality care

in the community, in a dignified manner; cost-effective and accountable. These are all hallmarks of the government-ODA model.

Bill 142 indicates that provincial standards will be set for programs and their delivery. We are sure this will happen for dental programs. This model can assist governments to meet their objectives under reform.

The infrastructure is in place to ensure that the same basic dental care program will be available to: children covered under the Ontario disability support plan; children in the care of children's aid societies; children who will be migrated from FBA, where they currently receive this benefit, to Ontario Works; children covered by the municipally funded CINOT program; disabled adults covered under Ontario disabilities support plan; and to provide emergency dental care services to eligible adults under Ontario Works.

We look forward to working with you to implement such a plan. Thank you for the opportunity to offer our advice. We'd be pleased to answer any questions.

The Chair: Thank you very much, Dr Cottrell. We have about two minutes per caucus. We begin with the NDP.

Mr Kormos: I read the report and obviously followed with you as you completed it. I come from an era, the 1950s, before the proliferation of dental plans in workplaces, for instance, where one can note very readily the abdication or forfeiture of dental care, with the resultant feature being that you have people who ignored it and then utilized OHIP because it was a hospital setting and they had all their teeth removed and ended up with dentures. That was the approach.

I'm troubled by the attitude about dental care as not part of a total health package, that somehow it's considered distinguishable from treatment for illnesses of the body. Where does this distinction come from, and is it valid?

Dr Cottrell: Really, our focus is from a slightly different perspective in that we, as the dental association, since the era you're talking about, have been very conscientious as a profession in trying to encourage a preventive approach to treatment. Rather than always treating the end result, which is the end of the disease process, we've gone to the other end of the parade and we're trying to do it from a preventive program. We now see, years later, the benefits of that and the cost-effective nature of that.

As we're saying, some of these programs — for example, children in need of treatment just by its name implies that these children are at the end point of the disease process. Some of them are having some pain. We're saying at this point in our society children shouldn't have to be subjected to that. We should be going to the other end and making sure we have the proper preventive programs in place so we can prevent the problems from happening. We see inefficiencies in always treating the other end of the parade, so we're trying to suggest that this may be an opportunity for us to streamline programs and get a little more consistency and equity in the treatment strategy across the province.

Mr Klees: Thank you very much, gentlemen, for your proposal, some very practical recommendations. Would I be correct in assuming that if we were to follow through with some of your recommendations here in terms of streamlining and bringing all this dental delivery into the model that you're proposing, we may have some objections from some of the public health units across the province who are involved there now? How would you respond to that and what's the solution to that?

Dr Cottrell: That's a very good question. Right now there are 42 separate public health units that are administering this particular program. It is something that we've found inefficiencies associated with, but at the same time there are areas of public health dentistry we probably have been remiss in bringing to the forefront because we've been bogged down in this system of trying to treat the end result of disease.

In particular in the area of oral cancer and the prevalence of oral cancer, we haven't been as effective at getting the message out to the public. We see a great opportunity here to utilize the advantages of a public health system to perpetuate some of these other programs.

Mrs Papatello: Your organization does a number of things like advertising, billboards etc. Part of the mandate of your organization is to get out there and encourage people to participate and have some kind of relationship with a dentist. The people who are being affected by Bill 142 are people who are on assistance of some form. Would you say you had the same participation in relation to that group as you do with the general population?

Dr Cottrell: There is a certain segment of the population that for whatever reason, usually to do with a phobia or something, will not access care unless it's a dire emergency situation. Is this what you're referring to?

Mrs Papatello: No, I guess I should be clearer. If people are poor, are they more likely to go to a dentist or not?

Dr Cottrell: We find that there's a fairly general cross-section. As I say, 30 years ago we had less than 40% of the individuals coming to the dentist; we now have 80% of the people coming on a regular basis, and that seems to be a good cross-section. Our research has shown that's a pretty good cross-section right through. As an association, one of the other things we do is try to promote access of care through whatever we have to do. Not everybody is blessed with having some kind of third-party insurance.

Mrs Papatello: Do you think CINOT has actually added to the number of people you can get to come in, even though they may need help in paying for that?

Dr Cottrell: It has definitely improved access to care.

The Chair: Thank you very much. Sorry, Ms Papatello, we really are running very late.

Thank you very much, gentlemen, for being here and presenting the views of your association.

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SOCIAL PLANNING COUNCIL OF METROPOLITAN TORONTO

The Chair: May I ask the Social Planning Council of Metropolitan Toronto, Andrew Mitchell and Bill Worrell, to come forward. Welcome, gentlemen. Thank you for taking the time to appear before our committee. We're looking forward to your presentation.

Mr Bill Worrell: I'd like to thank members of this committee for the opportunity to appear and express our views on Bill 142. My name is Bill Worrell and I'm a board member of the Social Planning Council of Metro Toronto. With me is Andrew Mitchell, who is program director of the council.

The Social Planning Council of Metropolitan Toronto is an organization with long-standing involvement in social assistance programs, dating back to the Great Depression and our submission to the Rowell-Sirois commission, and continuing through the reform exercise of the 1980s, which culminated in the landmark Transitions reports. Therefore, we are not here today as defenders of the status quo. We have always stood for constructive welfare reform which would genuinely assist those most marginalized in our society.

Unfortunately, Bill 142, in our opinion, is too fatally flawed to provide a basis for positive reform; nevertheless we have, where possible, attempted to offer concrete suggestions for improvements. Time limitations preclude us from offering anything more than an overview of our concerns.

Bill 142 constitutes the most radical reshaping of Ontario's social assistance system in three decades. We must emphasize to the committee that a rushed drafting of new legislation followed by perfunctory public hearings simply does not constitute an adequate process in a democratic society. These abbreviated hearings do not provide an opportunity for many people with valid ideas and opinions to be heard.

We have struggled to undertake as thorough an analysis of Bill 142 as possible. Bill 142 introduces numerous issues which we have not even had time to thoroughly examine, let alone address within one 15-minute presentation before this committee. Many others have sought an opportunity to appear, but they are not even being given an opportunity to address this committee at all. Many people have, in good faith, spent many hours grappling with the implications of this legislation and are offering thoughtful commentary in the direction of reform. The government, in good faith, ought to listen to the advice it is being offered and engage in an honest process of consultation and reform.

In the area of social assistance and citizenship, we'd like to say that we have profound concerns which centre on how many of the measures in Bill 142 would transform social assistance from a needs-based program to a kind of charity. Bill 142 reflects a fundamental shift in philosophy, from one which places the onus on society to provide

for those in need to one which requires the individual to prove their deservingness.

There is not a single right under social assistance which could not be stripped away at the stroke of a pen through regulation changes. This is repugnant in a wealthy and civilized society, and it is undemocratic to put such unrestricted power in the hands of the government with little or no opportunity for public input or accountability.

One of the myths about 142 is that it will create a system of mutual responsibility in the system. This is firstly a distortion of the existing system and secondly a gross misrepresentation of what Bill 142 actually creates. Under Bill 142, all the obligations fall on the recipient. There are no corresponding obligations on the system to provide assistance to people, regardless of how hard they may be trying to leave assistance.

We oppose the broad regulation-making powers contained in Bill 142. There is no aspect of the new system which could not be altered by regulation. Since regulations have not been made available for public scrutiny, there is a great deal about the new system which remains unknown. It is improper, given that the purpose of these hearings is to offer commentary on welfare reform, but it also means that in the future the basic nature of the system could be changed overnight by regulatory fiat, with no opportunity for public scrutiny or debate. This would include such issues of fundamental importance as categories of people who are ineligible for assistance.

We also have a number of specific concerns about how the new information requirements will jeopardize people without providing any more assurances to the system. There are provisions in Bill 142 which essentially transform social assistance into a sort of loan. This is inappropriate for a program of social assistance, given that the vast majority of social assistance recipients have worked and paid income taxes, and will do so again. Moreover, everyone pays sales and property taxes, including people on assistance. People already pay back society for their assistance. Compounding the problem, Ontario Works contemplates making people pay back yet another way through unpaid community placements.

Appeal rights constitute another area of grave concern. Bill 142 severely limits appeal rights, which should be a cornerstone of administrative systems. Many decisions will not be appealable to the new Social Benefits Tribunal; nor is there a possibility of even an internal review of these decisions. Decisions of fundamental importance, such as those relating to employment assistance, decisions to appoint informal trustees or to pay benefits directly to a third party, will not be appealable. This is objectionable in principle and will lead to indescribable hardship for many people.

For those decisions which can be appealed, there are no requirements that the initial internal review procedure adhere to any standard of fairness, but there will be new burdens on appellants, most of whom are unrepresented in the appeal process. Perhaps most disturbing is that the tribunal may not even be able to render an independent review of decisions. Bill 142 allows the ministry to bind

the tribunal to the interpretations of the law contained in their policy statements.

I'd like to pass it over to Andrew, who will speak about workforce.

Mr Andrew Mitchell: The social planning council is on the public record opposing workforce programs but in favour of positive welfare-to-work initiatives which would provide genuine opportunities to welfare recipients to build the skills they need to re-enter the labour market and gain long-term independence.

Our opposition emerges from our research, which clearly shows that simple work-for-welfare programs do not yield improvements in people's earnings or employment. Even welfare-to-work programs broadly defined differ in their impacts as they differ in their structures. Those which simply emphasize fast labour market entry, like Ontario Works will, do little but cycle people into the low-wage labour market with little prospect of longer-term independence.

Programs, conversely, which take a longer-term view of people, investing in their skills, show a much more positive long-term impact on their earnings and employment. These are the kinds of programs that I believe Ontario should be emulating. However, of course no program will have much chance of success if there are not decent jobs in sufficient numbers.

Our research indicates that the job market is much more complex than simple job growth numbers would communicate, even in the supposed job growth climate that we're in now. Increasingly, the labour market is polarized. The good-jobs-bad-jobs scenario is a very real one, and for many people on social assistance, bad jobs are the ones they will be competing for.

For example, among Ontario workers who were not employed full-time, full-year in 1995, and that's an increasing number of jobs, average earnings were only \$7,400. One in 10 full-time, full-year workers earned less than \$15,000. Such jobs will not guarantee an escape from poverty and they will not provide long-term independence from the welfare system. Moreover, there is evidence that these jobs are less and less likely to provide a stepping stone to better jobs in the future. This, I believe, shows why Ontario must go beyond simple labour-force-attachment-style programs.

In addition, the extension of employment requirements to single parents is a highly contentious issue. In our brief, we survey in some detail the barriers and issues confronted by single parents attempting to enter the paid labour market, barriers which the social assistance system simply must recognize. Child care is one very obvious example, but there are others less well known, such as medical issues, such as the high rates of depression and double depression suffered by single parents, which caused one report on the issue to conclude that employment strategies directed to that group would be useless unless their health issues were dealt with first.

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Similarly, it is well known at this point that single parents on assistance suffer from much higher rates of do-

mestic violence, including from intimate partners who actively interfere with the parent's participation in employment and training programs. This will create additional barriers to be overcome for single parents overcoming abusive situations but, much more seriously, work requirements will sometimes put these women at serious risk.

We believe there is no system of protections, no guarantees or exemptions which can provide adequate protection for single parents facing these issues. Voluntary participation in employment-related activity is the best protection we can think of, and in any event, the evidence shows that more single parents already engage in active efforts to find job-, work- or other employment-related activity than could ever be served by welfare-to-work program.

I want to turn for a moment to the issue of evaluation, which is I think an oft-overlooked one. Despite the sweeping nature of reforms contemplated under Ontario Works, there are no plans to undertake any kind of rigorous evaluation. I dare say a rigorous evaluation of these programs isn't even possible, given the implementation that's contemplated. There will be no way to know how the reforms have impacted on people and if any employment-directed activities have had any detectable impact.

This is not a matter for social scientists to debate in private; this is a large matter of public accountability and a glaring omission, given the large sums of public money which are at stake. The only reason we can speak with confidence about the impacts, costs and benefits of various welfare-to-work programs from other jurisdictions is precisely because of the requirement that they be properly evaluated.

The Chair: Excuse me. You're fast running out of time. I just want you to be aware of that.

Mr Mitchell: Thank you. I think I've got about one more minute.

The minimum the government should commit itself to is a rigorous independent evaluation of Ontario Works and its constituent programs, with the results reported to the Legislature.

The area of financing the new system is yet another area we feel compelled to address. Financing social program costs such as social assistance from the property tax is simply wrong in principle. The result will simply be to place municipalities in the position of having to undertake cuts on behalf of the province.

The last thing I'll just briefly address: We have a number of concerns around the disability program in particular, but it's our understanding that there are already amendments being contemplated, which makes comment impossible here today, so we won't even turn to those issues.

Our limited time has only allowed us to touch on the many areas of concern with Bill 142. Social assistance is a complex and contentious program which must address many diverse needs. Changes of this breadth cannot and should not be rushed.

The Chair: Thank you, Mr Mitchell and Mr Worrell. We agree it should not be rushed. Unfortunately, we don't have time available. Thank you for coming here this evening.

The Queen Street Mental Health Centre, John Trainor and Anita Persaud.

Mr Kormos: Chair, while these people are seating themselves, can I ask whether all those persons and groups who sought to make submissions at the Toronto hearings have been accommodated?

The Chair: I believe that was impossible. I can give you the exact number of people who applied.

Mr Kormos: Would you, please, Chair?

The Chair: One hundred and forty-two groups and individuals applied for Toronto. We've been able to accommodate about 40.

Mr Kormos: Chair, would you entertain a motion to extend the Toronto hearings and, recognizing the committee's limited power to extend the hearings, request that the House leaders consider such a request, they having the power, on consent, to do so?

The Chair: The only way that could be done, Mr Kormos, is to amend the government's time allocation motion. I guess that is a request that could be put to the government, but we have no power in this committee to extend the time.

Mr Kormos: I'll defer making that motion, because we've got to hear from these folks and some others.

The Chair: Could we do that? Thank you.

Mr Kormos: When we come back at 6:30 I want to put that motion to the committee.

The Chair: We may not leave before 6:30, Mr Kormos.

Mr Kormos: That's fine by me, Chair.

The Chair: I thought you'd say that.

Mr Klees: Chair, very quickly, can you just confirm for me that those individuals whom we weren't able to accommodate were advised that they can make their submissions in writing to this committee? Can you confirm that for us?

The Chair: That is always the case, as I understand it.

Mr Klees: Good. Thank you.

Mrs Pupatello: Chair, one quick question: We may not get through that at the recess — or we may not get to one. The questions that were put to the parliamentary assistant yesterday in requesting information for today, is that prepared yet?

The Chair: I'll leave the parliamentary assistant to deal with that, but perhaps we could deal with the presenters and so forth.

Mrs Pupatello: I just need a yes or a no.

The Chair: Mr Carroll, are the responses to yesterday's —

Mr Carroll: I advised you, Chair, at the beginning of the meeting that I did have some answers and asked you to put them in whenever you felt comfortable.

The Chair: All right. If we could deal with them at the end of the session, I think that would be helpful.

QUEEN STREET MENTAL HEALTH CENTRE

The Chair: Thank you very much for your patience. You have 15 minutes for your presentation.

Mr John Trainor: We're from the income maintenance advocacy program at Queen Street Mental Health Centre. This is a program which has been in existence since the early 1980s. It works with people with mental illness to try to ensure that they get the income to which they're entitled under the family benefits program, the general welfare program and CPP. We work in partnership with FBA and GWA to do that. We want to make some comments on the bill.

Our first one is that we support the separation of the disabled population into an Ontario program, a program which remains provincial and which focuses on disabled people. We think that's an important step in this bill, and we're going to focus our comments on the Ontario disability support program aspect of the bill from here on.

First, a couple of things that we think are positive. The biggest from our perspective is that the definition of "eligibility" clearly includes people with mental illness. We think that's essential, but it is equally important, as the bill goes forward and the regulations are drafted and it's actually put in practice, that care is taken to protect this and to protect the inclusion of people with mental illness.

This is not a hypothetical problem for us. When our program began at Queen Street in the early 1980s, we discovered after a survey of the Queen Street population, both inpatient and outpatient, that about 90% of those who were on social assistance were on general welfare assistance, despite the fact that they were eligible for family benefits disability. In practice, there was a significant bias in the management of the system against people with mental illness. As a result of years of advocacy and the involvement of programs such as FBA and GWA, we've reversed that figure: Over 90% of those on social assistance now get the full family benefits disability and CPP amounts. However, that is something which has to be guarded on an ongoing basis. So we think how the regulations are drafted is important.

The disability section in the bill appears to recognize the cyclical nature of some disabilities. That's particularly relevant to mental illness. We think that's an important feature. It seems to recognize and comment on the direct and cumulative effect of impairment on a person's personal care, function in the community and in the workplace and their daily living activities. We think that's very important, because for many people with mental illness, the cumulative effect is important. Even if their clinical status at a particular time is fairly good, years of dealing with a mental health problem and the impoverishment and exclusion which often result from such a problem do add up to a cumulative effect. We think it's a positive step to increase the asset level. Currently it's stated as from \$3,000 to \$5,000; \$5,000 still seems quite low, but increasing the asset level in general is a good idea.

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Perhaps one of the most crucial aspects is the amount of support that people will get. We think that the separation in the bill and the creation of a program focused on disabled people creates an important opportunity to improve the support to disabled individuals. It would seem to us that in a society which wants to support and treat people with disabilities decently — living decently may mean many things, but certainly among them is decent housing, adequate food, a means to get around or means of transportation, clothing and basic needs, and all of these rely on adequate income.

The impact of other government programs, such as the ending of social housing construction, the reduction of psychiatric beds — we're currently in a mental health reform process which is slated to close 50% of the beds — all have a clear impact on the ability of people to survive in the community, and the income they get through social assistance is becoming more central than ever to that process.

If you look at the figures from the Canada Mortgage and Housing Corp from last year, a bachelor apartment in Metro Toronto averages \$541, a one-bedroom \$673. The current maximum rental allowance on FBA is \$414, below even that low threshold of the bachelor apartment.

We think adequate income is essential. "Adequate" is of course subject to debate, but the National Council on Welfare gives a poverty line rate of just slightly over \$16,000. A worker in Ontario making minimum wage on a 40-hour week would have an income of slightly over \$14,000. The maximum on the current disability program of family benefits is slightly over \$11,000.

We think the entitlements for people should be increased. It's very hard to know what figure it should be. I almost feel embarrassed to suggest that it be increased to at least the poverty line of \$16,000, since that seems like such an absurdly modest goal, but perhaps, given some of the political and fiscal realities, it would be at least a step in the right direction. We really have to ask ourselves, if we have a program that is clearly focused on disabled people and the associated gatekeeping that that allows through medical and other means, why can we not move towards providing them at least a decent level of support? Certainly the low end of decent must be the poverty line.

There are other reasons beyond the moral to move in this direction. If you take people with mental illness and put them in the community, if you provide adequate income, we now know — it's obvious, but it's known through research — you will have fewer admissions to psych hospitals, less use of crisis services and less overall service use; you will in fact save money from the other end of your budgets. If people are admitted to a psychiatric hospital or a general hospital psychiatric unit, it's costing \$400 to \$700 per day, and just a portion of that as a monthly increase might allow them to live decently. From programs at Queen Street, where apartments have been provided, to patients through the various programs, the impact on mental health service use is dramatic and positive.

A couple of other comments on the bill. Access, for us, is essential. Currently, if someone wants to get on disability in Ontario, they typically go through the welfare system first. The application process for FBA is a longer-term option. We think it will be essential that the administration and the application of this disability program be characterized by a very quick access and a fast-track access. It was mentioned in an earlier presentation that you can't feed yourself and house yourself with money that comes in two months later. We think it's essential that there be a fast track and a recognition that if someone is getting out of a psychiatric hospital and is eligible under this bill, they will need resources and support right away, and there should be provisions for emergency cheques or that kind of thing.

We think there are a number of positive things in the bill about supporting work. There is mention of help in various ways with assistive devices, community-based coordinators, help with work preparation. Those are probably important. There is another provision which could be added which would be also crucial. At present, if someone wants to work on FBA under the STEP program, as it's called, they can do that, and as they make more money, they get less in their cheque.

What prevents a lot of people who are disabled with mental illness from actually taking that route is their fear of being cut off the disability program, and then they may lose their job and there is this long process to get back on. It would seem relatively easy that someone in that position who wanted to get back to work, which is in everybody's interests, should be given some kind of assurance that they could be on the system, as it's now stated for, say, up to two years. If they were making sufficient income, they would not be paid by the system, but if they lost their job, they would have the security of knowing that they would get back on very quickly.

That is, in practice, a very critical issue for people. They are very worried about getting cut off and then facing the FBA bureaucracy again to try to get back to the benefits which they maybe spent quite a bit of time trying to get. It is currently a substantial disincentive. If we could make some provision, like keeping them on the system for a couple of years so that they could get back on quickly and on a much easier basis, that would be important.

Maybe I'll stop there, and we can have some questions.

The Chair: Thank you very much. We have a very brief time for questions. We begin with the Conservative caucus.

Mr Carroll: We'll pass.

Mrs Papatello: I want to touch base very quickly on the issue — I don't what how it is called today, as it currently is, but they changed regulations to discard those who are on some kind of addiction. It has been interpreted as being fairly punitive for people who have put themselves in the position, so-called, to need some kind of assistance.

Yesterday we heard comments from a group that said if you do that, if you make that kind of morality judgement on people when in certain instances it truly is a disease

when you have an addiction, then if people are overweight, for example, and therefore have brought this on themselves, should the government pay for a health cost because they need a hip replacement? Can I ask you to comment on those things that are perceived as self-inflicted? In my own experience, some people who have a history of mental illness and therefore may be prone to certain types of activity often are perceived by the general public as bringing trouble on themselves.

Mr Trainor: I think you are right that there is a perception in the public, in some cases anyway, that for people with mental illness, there is more of a self-inflicted quality to that. That's an unhappy prejudice that is not defensible if you look at the nature of psychiatric illness. That's a bias that at least the bill seems to address by clearly including these people.

The exclusion of people with addictions —

Mrs Papatello: Do you see that —

The Chair: Mrs Papatello, we don't have time. Sorry.

Mr Trainor: I would be a little concerned about a simple judgement which suggests that addictions are the result of a purely individual self-inflicted behaviour, although that may be true in some cases, versus a broader social understanding that many people who are in a certain position in society, which may be characterized by poverty or desperation, may be more likely to seek some kind of comfort.

The Chair: Mr Kormos for the NDP.

Mr Kormos: If Mrs Papatello wants to follow through on that —

The Chair: You'll pass to Mrs Papatello?

Mr Kormos: If she saves me 15 seconds.

Mrs Papatello: The point is that if there is a link between a morality judgement the government may be prepared to make on a certain type of person or class of person, do you have any concerns at all? Often, your difficult job is to change public perception about those with mental illness, and here you have a government that is prepared to make a morality judgement on one class. How long is it before we start making morality judgements on other classes, like overweight people who have a certain propensity to a certain kind of health problem and therefore who pays for it? That's the link I'm trying to make.

Mr Trainor: I would share your concern. It's a road you've got to be very careful going down, isolating things like addiction or other things to purely individual aberrant behaviour. If you look at rates of things like that, they tend to be influenced by factors which are far beyond just the individual.

The Chair: Thank you for your presentation here this evening. We appreciate it.

1750

CANADIAN HEARING SOCIETY

The Chair: The Canadian Hearing Society Gary Malkowski.

Mr Kormos: Chair, while Mr Malkowski is getting settled in, I have a question for the parliamentary assistant.

The Chair: Mr Carroll is not here at the moment. Would you like to save it until he comes back? He has just stepped out for a moment. We will ask it in a moment.

Mr Kormos: Can we recess for a couple of minutes until he gets back? It's important that he hear what Mr Malkowski has to say.

The Chair: We'll continue, and we will wait for Mr Carroll for the question.

Mr Kormos: Chair, on a point of order: So far, this being day two, the only person from the government who has consistently been in here has been Mr Carroll.

The Chair: Mr Kormos, we have been through this. This is not a point of order, but I appreciate that you have put it on the record.

We are making some special arrangements for the ability to interpret. I am being asked for two seconds for technical reasons.

Welcome, Mr Malkowski. We're delighted to have you here with your colleague and your friends. Could I ask you, for the record, to state the name of your co-presenter, and then you have 15 minutes.

Mr Gary Malkowski: I'd like to introduce Jim Hardman. Jim is the manager of the Toronto region CHS vocational rehabilitation services. I'm Gary Malkowski. I'm the director of social service development at the Canadian Hearing Society.

Prior to beginning my presentation, I would like to first of all thank especially the clerk, Tonia, for having made the arrangements. I was surprised to suddenly find that the coverage of the interpreters was extended from the 15 minutes I was originally told you would pay the interpreters for. I appreciate that the member for Beaches-Woodbine raised the issue of accessibility. We've certainly made an effort in the last month on behalf of deaf consumers who wish to come out, but we were told that interpreters weren't going to be provided. This last-minute reprieve is nice. However, we didn't have the time then to rally the consumers who had originally wanted to be here, to let them know that suddenly there was going to be this accessibility. Although on the one hand I appreciate it, it has not made it possible for many of the people who wish to be here to be here, but I appreciate that the Chair and the clerk have made that accommodation. I hope that my 15 minutes can begin at this point, since that needed to be said.

For the last 57 years the Canadian Hearing Society, which is a non-profit charitable organization, has provided a wide range of direct services to deaf, deafened and hard-of-hearing people as well as hearing people, and that includes advocating for their interests and promoting their rights. CHS has 21 offices across Ontario and CHS has prepared this brief in order to assist the Ontario government and the Ontario Legislature in its deliberations on Bill 142, the proposed Social Assistance Reform Act, 1997.

CHS is pleased to support the intent of the proposed Ontario Disability Support Program Act announced by the Honourable Janet Ecker, Minister of Community and Social Services. The government has listened attentively to deaf, deafened and hard-of-hearing consumers and to CHS service providers, and as a result has accepted some of our concerns that have been raised previously. However, there are outstanding issues which continue to require further study, clarification and incorporation into the act by the government.

Mr James Hardman: Highlights of the proposed program that the Canadian Hearing Society supports are no financial penalty if efforts at employment do not succeed; expenditures in supports to employment to almost double from \$18 million today to \$35 million upon implementation; the elimination of unnecessary medical assessment and testing as well as other types of assessment; the elimination of the 25% copayment for the cost of assistive devices.

The Canadian Hearing Society, though, has the following serious concerns with the new legislation:

(1) Potential restrictions in eligibility for Ontario disability support program income supports benefits and supports to employment, due to a new definition of disability.

(2) No provision for costs of accommodation services, and that would mean, for example, sign language interpreters and notetakers, so that people can be involved in the hearings and appeals to determine eligibility to actually receive the services of ODSP.

(3) There's a lack of clarity that verifications of eligibility should be done by a person with the prescribed qualifications for determining functional loss, and these include concerns such as the impact of disability on clients' communication, social and vocational situations dealing with deaf, deafened and hard-of-hearing people, and not solely from the medical perspective.

(4) Repealing the current legislative commitment to fund post-secondary students with disabilities, and that of course relates to disability-related supports such as sign language interpreters, listening devices and computerized notetaking.

(5) There has been an inherent misperception that mainstream service providers accessed through competitively selected local service coordinators can meet the needs of deaf, deafened and hard-of-hearing people for employment services.

(6) We also have concerns over the uncertainty of the various VRS support programs and how they will continue.

(7) We certainly need clarification on what appears to be insufficient funding being allocated to the ODSP.

(8) There's a need for complementary legislation, such as the Ontarians with Disabilities Act, to ensure success of ODSP and to ensure as well that MET provides comparative access services for post-secondary students going to school outside of the province.

Mr Malkowski: We have six questions for the parliamentary assistant to the Minister of Community and

Social Services and hope you can respond to these questions at the end of our brief.

When will your ministry release detailed eligibility criteria for the public to review?

How will deaf and hard-of-hearing and deafened students apply for the top-up? Also, if students do not qualify for CSL because of parental income, for example, will they still be ineligible for the top-up funds?

What are the standards to ensure that there is equal access for deaf post-secondary students so that they are on a par with their hearing counterparts? What is the transition plan? How will the transfer be implemented to ODSP to ensure that students, as well as other VRS consumers, get the support they need/request within effective time lines?

Will MET now fund literacy training programs and individual tutors at private clinics for all deaf, deafened and hard-of-hearing students? Will they continue to be able to access supports through the service coordinators?

Will deaf, deafened and hard-of-hearing students with these high-level needs be accommodated through MET or will they be able to access supports for deaf, deafened and hard-of-hearing students through these service coordinators?

Will your government ensure that the local service coordinators reduce the backlog problems by providing appropriate supports and training dollars?

Mr Hardman: There really needs to be recognition that quality employment services include aspects of counselling such as career guidance and market research analysis and that these are essential to ensure consumer satisfaction and government savings over the long term.

The act needs to clearly state that sign language interpreting, computerized notetaking, specialized communication devices, will be provided as part of the provision of income support or employment services.

Furthermore, responsibilities for payment of accommodation services must be clearly delineated among government, private sector service providers and/or employers. Establishment of an accommodation fund would allow partners to contribute their fair share and have funding readily available so that a consumer is never denied service because of communication inaccessibility.

In terms of determining eligibility for ODSP and income support benefits and supports to employment, the client's or consumer's request should be accepted where the disability can be easily substantiated. For example, audiological reports or grade reports from a provincial school for the deaf should serve as methods of determining disability.

1800

Mr Malkowski: Our recommendations are as follows:

CHS recommends that eligibility criteria for local service coordinators include an expectation that specialized services be provided through a contract or purchase-of-service agreement between an agency such as the Canadian Hearing Society and the service coordinator. This would at least ensure that services are offered in an accessible environment by staff who have proven sensitivity to the understanding of the needs of deaf, deafened

and hard-of-hearing consumers. This recommendation would ease the consumers' deep concerns, especially if the service coordinator determining eligibility in a local community comes from the for-profit sector, which presumably could occur during a competitive process.

The Canadian Hearing Society recommends that the Minister of Community and Social Services work together with the Minister of Citizenship to have the Ontarians with Disabilities Act passed. This will strengthen the ODSP supports to employment and improve outcomes of local service coordinators.

CHS also recommends that the Minister of Community and Social Services work with the Ministers of Citizenship and Education and Training to include legislative commitments in the Ontarians with Disabilities Act that would fund post-secondary disability-related supports and also one-to-one tutoring and literacy training programs.

In conclusion, the Canadian Hearing Society is pleased to support the intent of Bill 142, the Social Assistance Reform Act, and also the proposed Ontarians with Disabilities Act at a later time. Deaf, deafened and hard-of-hearing consumers, along with the Ontario Association of the Deaf, the Canadian Hard of Hearing Association, Ontario chapter, and the Canadian Deafened Persons Association, all value the specialized services such as those provided by CHS. They believe CHS is best equipped to act as their service coordinator because of the agency's expertise in meeting their communication needs. CHS has specially trained counsellors and other staff who can communicate directly with consumers.

In addition, some staff are themselves deaf, deafened or hard of hearing, and they are consumers who have experienced at first hand the difficulty of conducting a job search. They know the barriers that must be overcome. Furthermore, new barriers such as technology, physical work environments and contract work are making it even more difficult for deaf, deafened and hard-of-hearing people to be trained, hired and promoted on the basis of individual merit.

The CHS is supporting Bill 142, the proposed Social Assistance Reform Act, 1997, with some reservations. CHS wants the issues outlined in this paper to be addressed prior to the Ontario government passing Bill 142. Furthermore, passing Bill 142 on its own is certainly insufficient. It is essential that the government draft and pass the Ontarians with Disabilities Act to ensure that there are comprehensive employment services and opportunities available to all.

I would like to ask the parliamentary assistant to the Minister of Community and Social Services to respond for the record to the six questions posed by the Canadian Hearing Society.

The Chair: Thank you, Mr Malkowski. For that to happen, I would need the Liberals and the NDP to waive their right to questions, because we only have three minutes left.

Mr Kormos: You've got it, Chair.

The Chair: Mrs Pupatello?

Mrs Pupatello: Absolutely.

The Chair: All right. Then it's the Conservatives.

Mr Carroll: Having waived their right to questions, my commitment is that I will get the answers and have them delivered to you.

Mrs Pupatello: I'd like my time back, Madam Chair. I have a question for the presenters. We have one minute each or three minutes each?

The Chair: You have one minute only.

Mrs Pupatello: I wanted to commend the hearing society for its presentation today. As the former MPP knows, in every bill this government has brought forward, we find certain elements we like, and then the balance of it is the hostage; if you want the little good part, you've got to take all the bad stuff too. We're finding quite a bit of that in this bill, although there are some areas in terms of the supports for the disabled community that I am supportive of in terms of what that community needs. You have identified some of those and have certainly expressed, very appropriately, the reservations in particular around the definition. I find it very difficult to believe a group that we have caught time and time again giving out the most outrageous information.

You were there, Mr Malkowski, at the press conference here in Toronto when that portion of the bill was being delivered. It seemed to me the minister clarified for reporters that day that one of those employment supports for those with hearing impairments would absolutely include interpreter fees, regardless of the cost. Was that your understanding that day?

Mr Malkowski: Certainly my understanding was a government commitment to financially covering the cost of interpreter services. However, deaf, hard-of-hearing and deafened consumers certainly shouldn't feel they are going to be penalized in terms of having to pay themselves for support services. Also, the private sector and agencies need to be accountable in terms of sharing the cost and to be financially responsible for that in partnership.

Mr Kormos: This government, after its election, slashed social assistance benefits by almost 22%, increased MPPs' salaries by approximately 10%, \$7,000 or \$8,000 a year for the lowest-paid MPP, and abolished employment —

Mr Young: That's ridiculous. That's not true. Nonsense.

Mr Kormos: Yes, it is true. I can prove it. I proved it yesterday and I'll prove it again. You're embarrassed by it, sir, and that's interesting.

Mr Malkowski, it then abolished employment equity legislation in the province. How important is employment equity legislation to persons with disabilities?

Mr Malkowski: Employment equity legislation is obviously critical. That is the only way you can require employers to actually be accountable. With its abolishment, it certainly has not only hurt us, but it sent the wrong message to employers and to the business world that you don't need to look at disabled people. Disabled people are citizens who pay taxes, who have a right to access to employment. All we need is a chance, as disabled individuals, to have access to society.

The abolishment of that act was extremely offensive. Whether this act is going to be a way of saying, "We can't punish people as long as there's an effort made" — an effort isn't enough. We need to have a commitment. An Ontarians with Disabilities Act would require that commitment, would require accessibility and would make it mandatory. The ODSP is fine in some areas in its own right. However, it doesn't have teeth without an ODA.

I agree that the cuts to welfare have been atrocious, have hurt disabled people, yet at the same time you've taken away their right to access and their right to get into the working world. I think ODA legislation would bring back some of that equity, would allow for training, would allow for opportunities which have been taken away with the abolishment of that bill.

The Chair: Mr Malkowski, Mr Hardman, thank you very much for being here with us this evening.

CUPE ONTARIO

The Chair: I ask CUPE Ontario to come forward; Brian O'Keefe, Margo Young and Ian Thompson. Good evening, and welcome.

Mr Brian O'Keefe: Thank you, Madam Chair. My name is Brian O'Keefe. I'm the secretary-treasurer of CUPE Ontario. On my left is Peter Paulekat, who will be sharing the presentation with me. Peter is the chair of our social service workers committee in CUPE Ontario.

CUPE Ontario represents 180,000 members in the broader public sector. Approximately 18,000 of these members belong to the social services sector. The funding and delivery of social services will be impacted by this legislation. Workers in municipal, social services, child care, children's aid societies, associations for community living and community social services will see changes in their workloads, the funding of their agencies and changes in the kind of services they deliver if this legislation is passed.

Unfortunately, most of these changes will be negative, because this legislation is not about ensuring that people's fundamental economic and social needs are being met, nor is it about helping to move people to reasonable employment. This legislation is a cost-cutting exercise. It's about cutting expenditures on social assistance and disability support and cutting people off the system. Ultimately, the changes the government wants to bring to our welfare system will hurt all Ontarians and move this society to a mean, ugly society that we're not used to in this province. It will lead to a polarization between the rich and the poor, with little in between.

CUPE members are uniquely placed to comment on Bill 142 because we are the front-line workers who deliver many of the social services that will be impacted by the legislation.

Our submission is going to focus on three main areas: the issue of eligibility, workfare, and also the delivery issue. We were going to deal with a number of other issues, but because of the short time lines here, we're going

to concentrate on those three areas. I'm going to ask Peter to take it forward from here.

1810

Mr Peter Paulekat: One of the cornerstones to cutting expenditures is the change in eligibility rules. Bill 142 dramatically changes eligibility for benefits. Most people who have received family benefits will now be transferred to Ontario Works. Single parents with school-age children will no longer receive enhanced benefits. This means they will be transferred to the new Ontario Works program. Persons with school-age children will have to participate in workfare. This will create an enormous burden on the existing child care programs. Because of the lack of financial support to child care, many parents will be forced to put their children in unregulated child care. These arrangements are potentially dangerous for all our children.

The shifting of single parents and foster parents to Ontario Works will likely increase the number of families in crisis, thus increasing the demands on the already underfunded and understaffed child welfare system in Ontario. Children are often the invisible casualties in welfare cuts. The imposition of work requirements on single parents on welfare in Milwaukee, Wisconsin, for example, has resulted in a 12% increase in the reports of child abuse and neglect. We already know that our child welfare system is in crisis in Ontario. Coroners' inquests into the deaths of children have called for increased funding not only to the child welfare system but for community support programs from child care and public housing to community-based child abuse prevention programs.

Persons between the ages of 60 and 64 will no longer qualify for enhanced benefits. Their benefits will be dramatically reduced. Cost cutting can be the only explanation for this shift. There's no rationale for insisting on requirements for obtaining assistance for Ontario elders. Ontario Works requirements are inappropriate for people who are about to end their working lives.

Of course, the introduction of these changes will also impact negatively on youth. We will never know the impact for youth in crisis, as the government does not want to track what happens to people cut off from eligibility.

A strict test for disability has been established under the new disability support program legislation. Disability determination impacts on the funding a person can bring to programs established for disabled persons. If people are transferred to Ontario Works, funding for a disabled person to live in a group home and participate in programs could be dramatically reduced. Persons with developmental disabilities may be denied access to valuable readiness programs and employment programs that are geared to their special needs and be forced into the Ontario Works and workfare programs. Persons with mental health disabilities may suffer the same fate.

The government is already looking for cost savings and disability determination through its contract with Andersen Consulting. It has been identified as one of the early opportunities to generate savings. The business process and medical adjudication process will be redesigned. One

can only conclude that part of the cost savings will be achieved by fewer people qualifying for disability benefits.

Workfare is characterized in the legislation as a form of employment assistance even though many studies show that workfare is a barrier to locating work. Workfare is mostly used to discourage people from seeking assistance and does not help people to obtain decent-paying and relatively secure employment. All standards and conditions of workfare will be determined by regulation. No protection against abuse of workfare participants or protection to ensure that workfare does not result in further job loss is provided in the legislation.

Recent studies of New York City workfare programs show that workfare does not work. Apart from creating a class of workers who have an inferior status, with no minimum employment standards protection, the workfare program has not led to employment. The city parks department, which utilizes 5,483 workfare participants, has only hired 22 of them on a full-time basis. According to one advocacy group, job entry statistics for workfare are about 6%, 11% for job search, 17% for readiness training and 61% for on-the-job training. The expansion of workfare has come at the same time as the reduction in the city's regular workforce.

Workfare has denied many welfare recipients the educational opportunities necessary to escape poverty. The New York Times has reported that this policy has resulted in a 17% decrease in enrolments at the City University of New York. The new practices in administering workfare have resulted in an alarming sanction rate of 40%.

Workfare is a low-wage strategy. As officials from Wisconsin point out, the purpose of workfare is not to help people get jobs but to discourage people from applying for welfare. The government of Wisconsin has referred to reforms such as workfare as "application dissuasion." Workfare is meant to demean people so much that they can never even walk through the front door.

Ontario Works will hurt Ontario's economy by encouraging the development of precarious, low-wage jobs. This will happen as a result of the focus of the program to take the swiftest way to a job and from a program that is premised on taking people off the system by any means possible. It leads to greater social and economic inequality.

Mr O'Keefe: I'm going to deal with the delivery issue. My main concern with the delivery issue is the issue of privatization. Together, sections 45, 48 and 49 of the Ontario Works Act open the door wide open to privatization in this province, to entirely revamp the welfare system. This is totally, utterly outrageous. There are all sorts of examples of what has happened down in the United States. You're well aware that the introducing of block funding for the states has resulted in all sorts of scandals, cost overruns, failure to meet targets. Big multinational corporations like Lockheed Martin, Andersen Consulting, Unisys, Electronic Data Systems, all the vultures, are lining up at the trough down in the US. Do we really want to get into that sort of situation in this province?

What we're seeing here is a \$180-million contract for Andersen Consulting. I can tell you this is a total waste of taxpayers' money. There is no place for the private sector in this sort of business. We're dealing with people here, vulnerable people, the more vulnerable members of our community. To have the private sector sitting in judgement on people in poverty is not acceptable in the sort of society we're used to in this province.

I can give you some examples of some of the abuses we've witnessed down in the United States. For example, in California the auditors concluded, based on the Unisys system down there, that the cost more than doubled what they presented, and it's going to be 10 years late. We also have a similar sort of situation in California with the child support system, where Lockheed Martin is 163% over budget, and apparently that system is on the brink of failure. We also have Andersen Consulting privatizing the welfare system in Nebraska. The cost is 60% more than they initially presented. The Auditor General in Nebraska has quite clearly stated that this is the worst contract he has ever reviewed. There's also the situation down in Texas, where the contract down there is four years behind schedule and 559% over budget. This is the sort of experience we have coming from our neighbour next door regarding what can happen to the welfare system if private sector companies get into it.

Closer to home, we've got the situation in New Brunswick. We know from that particular experience that half the savings were because of the elimination of workers. They got rid of 200 workers in New Brunswick, and that constitutes over half the savings they realized. The rest of it was based on pushing people off the system in order to make a buck. This is outrageous. It's unacceptable. Even the auditors in New Brunswick have questioned that particular contract.

I should also point out that the federal government and the department of works have cancelled a contract with Andersen Consulting because they want to get out of that business.

What we're seeing here is a performance-based system which is based on whatever savings these companies can extract from the system. Basically, they're going to make a profit on misery, make a profit on pushing people into poverty. The more they can do that, the more money they're going to earn. This government and this province are sanctioning that. I hope you will seriously reconsider that particular route, because it's an entire waste of taxpayers' money. If you're interested in addressing the needs of taxpayers, this is the very worst way of doing it.

Also what these private companies do, particularly in the employment field, and this goes for what's going to happen with Ontario Works, is that they get into a creaming situation, where they take all the best people off the system and put them in whatever jobs may be available, and all those clients who have barriers of one form or another will be left hanging out to dry. That is the experience with these sorts of companies.

As far as the workers in the system are concerned, and we have a lot of workers in this system, what we're hear-

ing about the New Brunswick situation is that in certain cases workers are now down to spending five minutes a month in direct contact with their clients. This is an inhuman system. It's going to a technology-based system and eliminating all human contact. It's going to totally demoralize workers who work in the system. It's going to penalize the people who use the system and it's going to penalize the workers who provide the service. Also we're looking at kiosks replacing workers. Human contact is going entirely out the door here.

This is the sort of thing we can expect from private corporations in the welfare system. It is totally unacceptable. It's going to totally revamp what we're used to in this province. There's not going to be any accountability. It's going to be a total monopoly situation when Andersen Consulting gets control of the administration of the welfare system in this province. I can tell you that you could do a lot better with that \$180 million than pouring it into a private corporation such as Andersen Consulting. You have very good workers, very good public sector administrators in this province, and you should use them and not resort to private corporations.

In conclusion, our position is that Bill 142 should not be passed. This government has a regrettable track record of being deaf to the legitimate concerns of social justice issues. It's time to start listening. This bill will provoke long-term destruction of people's lives. Bill 142 must be scrapped.

The factors that have to be considered are:

Eligibility criteria must be revamped so all persons in Ontario will have protection.

Levels of social assistance benefits must be restored.

Employment, training and education programs must remain voluntary.

The process for changing regulations must be transparent.

Tribunals should be independent and fair.

Tribunals should be fair and appear to be fair, impartial and accessible.

The contract with the government of Ontario and Andersen Consulting must be rescinded.

Delivery of social assistance and programs must remain accountable in the broader public sector.

The Chair: Thank you very much, Mr O'Keefe, to you and your colleagues for being here. You've used up all your allotted time.

Ladies and gentlemen, we're going to call a recess for about 15 minutes. We'll see you back here at 6:40.

The committee recessed from 1823 to 1844.

TORONTO ASSOCIATION OF NEIGHBOURHOOD SERVICES

The Chair: We're ready to start. I ask St Stephen's Community House, Bob Gwilliam, to come forward. Good evening, Mr Gwilliam. Thanks very much for being here and for your patience.

Mr Bob Gwilliam: That's just fine. We have lots of time.

The Chair: I wish we could say the same. We are working under a very strict time allocation motion that the government has invoked so we're trying to give everyone 15 minutes. May I ask you to introduce your co-presenter, and then you have 15 minutes.

Ms Liane Regendanz: Actually, I'm going to speak first and Mr Gwilliam is going to speak after.

Good evening. My name is Liane Regendanz and I'm the executive director of St Stephen's Community House. Just to clarify, because I notice on your agenda that the presentation is down as being by St Stephen's Community House, in fact we're doing this on behalf of the Toronto Association of Neighbourhood Services, which is TANS. TANS is made up of five other multiservice, non-profit agencies, volunteers from our board of directors and the community at large in the city of Toronto.

TANS agencies serve many social assistance recipients through our programs, in addition to offering volunteer and work experience opportunities for recipients in our agencies. Therefore, our agencies and the many welfare recipients we work with are very interested in Bill 142, as it signals a significant change to a system of social supports on which many people in our community have to rely at some point in their lives.

I'd like to introduce Mr Bob Gwilliam. Bob is here this evening to speak on behalf of TANS. Mr Gwilliam has been actively involved in the non-profit settlement sector since the early 1970s as a volunteer. He has served for years on the boards of many community agencies. He has acted as president of the International Federation of Settlement Services, the Canadian Association of Neighbourhood Services and TANS.

He is a volunteer management consultant with the United Way of Greater Toronto and has received numerous awards for his voluntarism, including the National Volunteer Award in 1988, the Ontario government award for volunteers and the city of Toronto service medal.

We, as community service agencies, have always felt privileged to have the involvement of Mr Gwilliam in TANS and the work of our agencies. He brings a wealth of experience, expertise and, most importantly, compassion to this volunteer association he has with us. So without further ado, I'd like to introduce Bob Gwilliam.

Mr Gwilliam: Thank you. I'm enormously flattered. I'm sure I can't live up to that.

I'm speaking on behalf of the TANS group, and as you can imagine, a lot of people have contributed to this short paper, so it may not flow as nicely as it would have done if just one person had written it, but we hope you'll bear with that.

We have five member organizations that I represent tonight: Central Neighbourhood, Davenport-Perth, Dixon Hall, St Christopher House, St Stephen's and WoodGreen. WoodGreen, by the way, has two capitals in it because it refers to the two founders, Mr Wood and Mr Green, which is a very curious compression.

Some of our member agencies have been working since the turn of the century. That's a long time. While we focus on the life of the inner city, TANS is linked with other

groups, locally, nationally and internationally. We address issues of poverty and other barriers to building a healthy, vibrant community. Together, we assist tens of thousands of people — seniors, children and youth, families, adults and volunteers — and we help them all to meet their basic needs and to become active in and contribute to the social, economic and political life of our societies.

Just as an aside, I might say that we have succeeded, I believe, partly because we have cleverly combined the professional social worker and the volunteer, government money and private money. We've had those four legs that we've been standing on for many years, so if we lose one leg for a little bit, we don't fall over. That's been a very clever combination which has been highly successful all over the world.

As multiservice organizations, we bring together the old, the rich and the poor, newcomers and established cultures, diverse faith groups, different political stripes and all the diversity our communities have to offer. Our strength is our singular ability to bring people together, that is, staff, volunteers, community residents and other service providers, the private sector and government, and we work towards developing and reaching a common vision.

Through the years, TANS organizations have engaged social assistance recipients and governments in discussions on how our social security system can be reformed to help low-income and disabled people move from subsistence on welfare to full participation in the life of our communities. Discussions with social assistance recipients and service providers in our communities have indicated a real concern with this new act, which we think may exacerbate and further entrench inequalities.

1850

That would be our principal fear, I think, that whilst we've been working for all these years to try to move people out of the subsistence welfare mode into the more participatory mode, we're not sure the bill will help us to do that.

We think the bill has successfully identified the types of government supports wanted by the recipients. It has embedded them within what appears to be a bit of a punitive framework. The act fails to recognize or acknowledge the limits and desires of social assistance recipients and places a great burden on low-income and disabled people. Finally, the act seems to give powers to the minister and the cabinet which could further erode people's ability to participate in their community. That's our reading and that's our impression. It may be wrong.

We would like to say that for welfare reform to be well-meaning, it's not enough just to mean well. It must be meaningful. Meaningful legislation would protect and guarantee basic human rights, dignity and entitlements. Perhaps that's a statement to the obvious, but we would like to make it. Meaningful legislation would not be influenced by the insignificant number of people abusing the system. As an aside, we often get deflected from our main course by those who abuse whatever systems we happen to be interested in, and that's most unfortunate. We don't

think, from our experiences, there are many people who are abusing the systems that we have in place here. We think the legislation should focus on those who have access legitimately and are responsible people.

We think also that a meaningful piece of legislation would be accompanied by a comprehensive job creation strategy. Everybody talks about job creation. I once spent five years in the labour department in Ottawa, in Manpower, and I have lots of private views on how to do it. But on the whole, it's difficult. Governments don't create jobs; they create the conditions in which jobs can be created. There's a fine distinction there, in my opinion. It can be done, but it's enormously difficult. I think attention should be given to that.

Meaningful legislation would acknowledge the value of building social capital which is so vital to family and community life. I think we forget that sometimes. Social capital is built when people volunteer to do things together. Canada is really blessed with its enormous group of volunteers. I think it's the richest volunteer country in the entire world. If you go to Calgary, for example, and put up a notice that you need some volunteers, you have 1,000 in five minutes. That's social capital-building and that's enormously important. I think we should be aware of that. It isn't just paying people to do things; people will actually volunteer to do things and keep our society together.

We also think meaningful legislation would recognize and address the many barriers to participation in the job market. In our agencies, we talk of barriers to participation. There are obvious ones, such as the lack of education. If you haven't got the education or you haven't got the skills to do the job, you can't participate very well. If you're an immigrant and don't speak the language, that's a barrier. You may have mental health problems, you may have addictions, and above all, you may not understand the culture into which you have come, if you're an immigrant. In fact, it may be that you were born and bred here and you still can't understand what the culture is about. Those are the sort of things that we in the agencies have been tackling for many, many years.

We have also conducted a number of extensive consultations with social assistance recipients and consumers of our services. On the whole, we find — and we believe what people tell us; I always believe what everybody tells me, I don't have any choice — in general, they want to work. When I was in the federal government I happened to be part of a team that interviewed 1,000 unemployed from coast to coast. We ran like maniacs across the country. I don't think I met a single person who didn't want a job. That's my personal experience. I only speak from personal experience; I don't talk about what somebody else told me. So in general, what we find is that people want jobs. They also want to participate in their communities by working, learning and volunteering.

Then we find people who tell us that with their current skills, they can't find a job. Sometimes their skills become obsolete. They get laid off. They're not with it. They probably need retraining, extra help and so on. We also

find that recent immigrants — this is not news to anybody — come in with great hopes and find that their training and experiences are not recognized. I have been in Canada since 1951, and it's been going on since 1951, to my particular personal knowledge. I've been able to do something about it in some areas.

Other people get frustrated by the lack of affordable child care, which is quite significant for a lot of people. Then we find people who have lost their jobs and their houses. They've lost their shelter and their means of support. Then we have lots of people with physical and mental handicaps, and they too find it difficult to find a job.

There are many barriers which keep people impoverished, and I think Ontario Works identifies some of these. However, we put a caution note on it: Onerous compliance requirements and inadequate resources within the framework may subvert the goals of the program. One has to be careful not to build too much bureaucracy. It's always a dangerous thing, in my opinion.

The community participation component of the Ontario Works Act may be interpreted by the recipients as having something of a punitive underpinning. Implied in this appears to be the notion that people on welfare have a responsibility to contribute to society in exchange for their social assistance dollars. Our experience is that most people on welfare are already involved in their communities and are actively seeking employment. Many indeed volunteer to do things, so they're adding to the social capital — not the economic perhaps.

The Chair: Mr Gwilliam, your time is fast approaching its end. I just want to —

Mr Gwilliam: Yes, I can zoom on. Sorry. I just had too many asides.

The Chair: I just don't want you to miss the highlights.

Mr Gwilliam: I'll just skip over. You've got it in front of you. I don't need to read it all. What I would like to tell you is that sometimes there's evidence that we have been doing similar work to which this act is attempting to move us. The one program I'd like to mention to you is the Connections program of St Stephen's House which targets social assistance recipients who are newcomers to Canada and experience many of the barriers I noted earlier. This program consists of 12 weeks of training in computers, English as a second language, employment preparation, customer service training and life skills. Participants then get 16 weeks of work experience, and so on. You can read it.

But the interesting thing is, if you flip to page 7, the success rate is quite extraordinary. We have 74% of participants leaving the welfare rolls into employment. That has got to be astonishing, because generally retraining programs have about a 10% success rate, which is not very good.

I've made a comment and we've got a comment there about experiencing resource constraints, and this may reduce our ability to do some of our work.

In our experience, welfare recipients have made and continue to make significant voluntary contributions to our agencies. In turn, our agencies provide a safe place for

social assistance recipients to address personal issues, blend scarce resources more effectively and break down isolation, fear and intolerance. More importantly, voluntary placements help people to re-establish and maintain a larger social support network.

Our relationship with recipients could be put at risk by forcing us into a monitoring and controlling role. This may lead to our being seen in a negative light by social assistance recipients, especially if their benefits are seen to be lost by our actions.

The Chair: Mr Gwilliam, I'm going to have to ask you to stop. I regret that we don't have enough time.

Mr Gwilliam: You have it all in front of you anyway. Thank you.

The Chair: We all pledge to read your brief in its entirety.

Mr Gwilliam: Oh, I'm sure.

The Chair: Thank you both very much for appearing here this evening.

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ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair: I ask the Association of Municipalities of Ontario to come forward, Terry Mundell and Edward Doon. Thank you for being with us this evening. We're looking forward to your presentation.

Mr Terry Mundell: Thank you very much, Madam Chair and members of the committee. It's a privilege for me to be here today to speak to you on behalf of the Association of Municipalities of Ontario. My name is Terry Mundell and I am the past president of the association. With me is Ed Doon, who is the warden of the county of Oxford and as well the chair of our health and social development policy committee.

I wanted to make a few opening comments to say that it's quite clear that the social assistance reform which we have is part of a broader package of the Who Does What reforms, and we will be addressing some of the financial impacts of this particular issue as part of Bill 152. Tonight what we're trying to do is focus you on some of the strategic directions as outlined in Bill 142, and as soon as the regulations have been released, we will hopefully enter into some government-to-government discussions, as the regulations hold a large amount of the detail within this particular portfolio.

Ontario's municipalities are the province's primary partner in delivery, management and funding of Ontario's social assistance programs, and we share the government's commitment to implementing long overdue reform of the social assistance system. This legislation is a positive step toward developing a more integrated and employment-focused social assistance system which will provide a catalyst for supporting individuals to return to work. We hope that our comments today will contribute to further improvements, particularly as they relate to key municipal expectations of accountability, input into public policy

development, local decision-making, sustainability of costs and program integrity.

Municipalities have a strong interest and a long history in ensuring the provision of quality human services to residents in our communities. Given our experience, we believe that the municipal sector has much expertise to contribute to further the goals of social assistance reform.

Municipalities also fund a significant portion of Ontario's social assistance costs and want to ensure that property tax dollars are spent appropriately. In fact, municipal funding responsibility will increase as municipalities are asked to deliver and cost-share benefits for sole-support parents, and cost-share benefits for the aged and disabled and health programs.

AMO has approached the review of the Social Assistance Reform Act by not deviating from the principle that income redistributive programs should not be funded by property taxes. Minister Leach agreed with this opinion at the recent AMO conference in a speech to some 1,500 municipal delegates. Municipalities agree that we must move incrementally in this direction, given the broader Who Does What reforms.

In exchange for the municipal contribution to social assistance programs, municipalities are looking for provisions which we believe will be the litmus test of reform: Municipalities believe that client need must be met, while recognizing limited dollars and taxpayer interests in program integrity. There are positive measures contained in this legislation that will give municipalities and the province greater ability to ensure that resources are targeted to those most in need.

The social assistance program must provide clear lines of accountability for municipal property tax dollars, through municipal management authority over municipally funded programs. Additional provisions are required to ensure provincial accountability for municipal tax dollars spent on the Ontario disability support program.

We believe that the province has a legitimate role in the development of province-wide standards for social assistance to ensure consistent access to service across Ontario, but municipalities must be included in setting these standards. AMO recommends that the authority of the municipal sector to participate in the policy development process should be enshrined in legislation.

Municipalities know what works best for their communities, and therefore require the flexibility to deliver and organize programs in a way which best meets program goals. Local decisions should also prevail regarding the organization of municipal delivery structures for social assistance.

In order to ensure that costs are sustainable over the long term, municipalities require assurances that municipal property taxpayers will be insulated against economic downturns. To insulate municipalities from economic downturns that are inappropriately borne by property taxpayers, AMO recommends that the province reinstitute a provision for increasing the cost share between the province and municipalities should the caseload increase by a certain portion of the population. To do any less

would send a signal that there is a lack of confidence in the province's Ontario Works strategy.

Municipalities are seeking assurances that the service transfer will be smooth but expeditious. We share the government's interest in ensuring that there is no disruption for clients, and we must work together to develop the most appropriate transfer process to achieve this goal. The matter of the transfer of provincial staff which may be required to support program delivery requires much more discussion between our two levels of government.

Ontario Works: AMO is pleased that the proposed legislation confirms the government's trust in the municipal sector to deliver quality human services which are fair to those in need. As leaders in employment program development, municipalities are pleased that the legislation focuses on integrating employment activities with social assistance.

Municipal delivery of Ontario Works also provides opportunities for integrating and streamlining income testing in other areas of municipal responsibility such as child care and social housing. These streamlining opportunities will be a key feature in achieving efficiencies and cost savings, which are essential to municipalities in fulfilling new funding responsibilities.

In keeping with the proposed purpose of Ontario Works, the core business of municipalities delivering Ontario Works will be to provide temporary income support and to support clients to gain or regain employment. Program delivery requirements must be limited to those functions which directly support this purpose. AMO is concerned that some proposed new program requirements such as direct payment, liens on homes and collection of government debt do not directly support the program's purpose.

In keeping with the employment focus of Ontario Works, a simplified, streamlined administrative structure under a reformed social assistance system should allow municipal deliverers to dedicate an increased portion of time assisting clients in employment initiatives. We encourage the government to ensure that administrative requirements are studied carefully, and are deemed necessary and effective before proceeding.

Many municipalities across Ontario are working hard to implement the Ontario Works employment program. This program provides an illustration of the need for local flexibility in achieving the most effective way of meeting program goals. Municipalities believe that program funding for Ontario Works employment should not be constrained by program stream. In our view, different communities will have greater success with different program components depending on local circumstances, the local economy and so on. In addition, clients tend to progress through various program elements, depending on job readiness. For instance, clients often proceed from résumé preparation and job search skills to on-the-job training before exiting social assistance. While we recognize the government's interest in uniformly implementing all program components across Ontario, we believe that Ontario Works will be most successful where municipali-

ties can freely flow funds across program components according to client needs.

The government has announced its intention to consolidate municipal social assistance delivery across Ontario. The government must ensure that local solutions prevail in moving towards local consolidation of social assistance delivery. The minister's regulation regarding apportionment of costs between affected municipalities should be limited to provincial intervention where consensus cannot be reached. To arbitrarily set a method of apportioning costs in legislation will have the unintended effect of curtailing local decision-making and presumes a one-size-fits-all approach.

While municipalities share the government's interest in ensuring a smooth transition from the transfer of cases between the family benefits program and Ontario Works, municipalities are interested in assuming management responsibility for these cases as soon as possible. In fact, many municipalities have demonstrated their willingness and capacity to accept service transfer as soon as feasible. It is important that elected provincial officials ensure a timely transfer of this service. After all, the government is expecting municipalities to achieve program efficiencies of 2.3% per annum overall. This will be virtually impossible if municipalities exercise little or no control over the programs.

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The Ontario disability supports program: While the proposed Ontario Works legislation program provides for some measure of accountability for local property tax dollars, the proposed ODSP clearly separates spending from accountability. The legislation is silent on how municipalities and property taxpayers will be assured that property tax dollars are spent wisely. As a level of government, municipalities must be able to access management reports, budget forecasts and so on in order to accurately predict cost impacts from one year to the next. It's simply unacceptable for the province just to send the municipality a bill at year's end. In order to ensure municipal accountability for the ODSP, the municipal sector must be assured input into the determination of program directions for the ODSP, including the most appropriate delivery mechanism, eligibility criteria etc.

Health-related programs: AMO continues to recommend that the government, through its Ministry of Health, should have full responsibility for the provision of health-related benefits for social assistance recipients. The requirement that municipalities cost-share in health benefits such as the Ontario drug benefit program is ill conceived. Municipalities are disappointed that, while undergoing a fundamental and broad-sweeping reform of the social assistance program, the government has been unable to correct the long-standing problem of funding health benefits through the social assistance system.

In closing, AMO would like to reiterate key municipal expectations for social assistance programs in Ontario. Municipalities will continue to play an important role in social assistance, employment and other social services programs. Municipalities require clear and direct lines of

accountability for programs which they fund. The policy framework for social assistance must incorporate municipal input and expertise. Municipalities need maximum local flexibility to manage and deliver programs according to local needs and circumstances. The bill should provide opportunities to find efficiencies and cost savings and that the regulations will receive municipal input prior to proclamation.

There are some detailed comments which follow in appendix A. At this opportunity, I would like to thank the committee very much.

The Chair: We have just under a minute per caucus for questions. We begin with the third party.

Mr Kormos: No, thank you, Chair.

The Chair: Mr Carroll for the Conservative caucus.

Mr Carroll: Thank you very much for your presentation, gentlemen. Here is the current Family Benefits Act. It's 11 pages long. The current General Welfare Assistance Act is nine pages long. Almost everything about those two acts is totally included in regulations. We have put a lot more into the legislation; not everything, obviously, but we've put a lot more into the legislation than is currently in the previous two acts. The "disability" definition is, by regulation, in the current act. I think we have gone a long way to improving the situation by enshrining more in legislation, but obviously some things have to be left to regulation. I just wanted to make a comparison for you on that issue.

Mrs Papatello: Thank you for coming tonight. I noted with interest your comment regarding income redistribution programs that should not be borne by municipal property taxes. I agree with that. Minister Leach also agrees with that. It's very interesting that they're coming forward with this bill and dumping costs on to property taxes for such programs. It must be difficult for you to continue when the very basis in principle is dead wrong.

Can you make a comment on the inclusion in the bill of things like fingerprinting? Those will be administrative in nature. No one seems to be able to settle on the estimates. Years ago the significant technology changes through the Ministry of Transportation indicated a computer cost of some \$1 billion. It would be very easy for the province to come forward with legislation that tells you, at a local level, that you must fingerprint everyone, and then you will be paying a portion of the cost to implement a system that could be wildly expensive.

Mr Ed Doon: From the municipal sector, we certainly support the use of identification technology that is available to allow municipalities the flexibility to decide what is appropriate in their case. With technology changing today, there are different approaches that could be taken. With the number of cases that municipalities are going to be dealing with through the new Ontario Works program, it's going to be important to have a system in place that will be able to identify clients the best way possible.

The Chair: Thank you very much, gentlemen, for appearing before us this evening and sharing your views.

JUSTICE FOR CHILDREN AND YOUTH

The Chair: Could I ask Justice for Children and Youth, Sheena Scott, to come forward. Welcome to our committee. You have 15 minutes for your presentation. If there's any time, the committee will ask questions.

Ms Sheena Scott: I'm a lawyer and also the executive director of Justice for Children and Youth. We are a legal clinic that helps young people access education services, child welfare services and social assistance services, among other things. Most of our clients have left the family home or have been expelled from the family home for reasons relating to physical abuse, sexual abuse, abduction, a variety of different reasons. Many lesbian and gay youth are kicked out of the home.

In the nine years that I've been at Justice for Children and Youth, we've never once been unsuccessful with a case under the welfare legislation involving special circumstances. What I'm trying to say is that kids leave home for a good reason. I've included in the materials for you tonight a letter from Youthlink, which works with children who have left home or been kicked out of the home; a brief from Justice for Children and Youth from 1996; and our current brief in response to the legislation that we're dealing with tonight. There is more material in there in any case regarding why young people leave home. I don't want to dwell on it, but I do want to say that they are out of the house for a reason. They're not out of the house to have a good time. Most kids want to be at home with their parents and have the support so they can go to school.

SARA poses a lot of problems for 16- and 17-year-old youth. Under the proposed legislation, an administrator may appoint someone to represent the young person. There's really nothing in the proposed legislation other than age that's the basis for those criteria. You could have a perfectly competent young person capable of managing his or her affairs who, because of his or her age, is now subject to a third party acting on their behalf as the guardian of the funds.

This is very difficult for a young person who's been expelled from the home. They can't really have their parents administering it. There's a clear conflict of interest. Who are they to go to? Is the school guidance counsellor then going to take on this role? Who are we going to turn to? I don't think we're going to have people lined up saying: "Yes, please pick me. I want to look after the funds for this perfectly competent individual."

I had a client who was 15 years old who was so competent and capable that she was assumed to be 19 and received welfare in an administrative error because she was a very mature young woman. There are many, many such people.

Under the proposed legislation, there is no appeal process. It's bad enough that they're assumed to be incompetent for the purposes of this legislation; it's worse that they can't even appeal it and show, "In fact, I am quite capable."

At 16, legally, a youth can leave home. They can't be compelled to return home. They can consent to medical treatment, they can consent to obtain housing, they can do all kinds of things in our society, but now we're saying they can't manage their own funds for the lease that they're legally entitled to enter into. It doesn't make a lot of sense.

Although the legislation is permissive, the background paper has stated that there will be no more funds paid directly to 16- and 17-year-old young people. Why is that the case? Is it to appease some sort of perception that these young people shouldn't be out of the home, that they should somehow be in the home? I don't think any of us would want a young person who had been sexually abused to stay at home, so that can't be why. Nor would we want the abuser to be acting as the trustee. It doesn't make a lot of sense. The practical difficulties are extreme.

In our brief, we talk about the Substitute Decisions Act and the fact that where someone is truly incapable, there is already existing legislation that deals with that. Where someone is truly incapable, regardless of their age, there are mechanisms in that legislation for dealing with it. It's our suggestion that we scrap this provision of SARA and just look to the Substitute Decisions Act when someone is truly incapable and not make any age-based assumptions about someone.

We're afraid that more and more young people are going to end up on the streets, and that's what we're seeing. Yes, maybe the statistics are down in terms of the number of youth receiving social assistance, but where are they? They are the squeegee kids. They are the other kids who are at Spadina and Bloor with their hands out because they aren't able to access a system that is becoming more and more exclusionary.

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I also want to talk about workfare and parents who have disabled children at home, who are in school part time or may not be in school at all. The legislation isn't clear what will happen to those parents. I'm aware of a young boy named Dylan. He's a school-age boy who has cerebral palsy and has to be fed from a tube. His mother spends six hours a day feeding him. She can't work. But for her care, he would be in children's aid care, at extreme cost to the society. The legislation has to make some provision for school-age children who are being cared for at home, and that's not done. I don't know if that was an oversight or not, but we have a lot of clients whose parents care for them during the school day and during the workday because the child is under home instruction or is not in school despite the fact that they are school-age. Furthermore, the legislation doesn't clearly exempt parents of preschool children from workfare. So that's an issue that has to be looked at.

I also want to highlight the issue of recovery from dependants of recipients. Here we have a provision that allows the administrator, as a condition of eligibility, to require a dependant — that could be a 14-year-old child — to agree to forfeit future income because their parents are going to get social assistance. This is the same 14-

year-old who, two years down the road, is going to have a trustee appointed for them if they're on their own, yet we're going to have them agree to pay back the debts of their parents in the future. It seems ludicrous. It's very intrusive and it places the child in the position of thinking, "I'd better do this or my family is going to starve." What incentive do we have for that child to go to school or enter the workforce when they are going to have pay back that debt? It doesn't make sense. It's a very insidious and subtle provision and I don't know that a lot of thought has been put into what is there and what it's for.

The same with a young person having to put a lien on their property in order for their family to receive food. Children don't have an obligation to support their parents. It's the other way around. Only adult children have an obligation to support their parents. This bill has twisted that around. We are asking that those provisions not be enacted.

This is very much mystery legislation when it comes to a lot of things, including what's going to be happen to 16- and 17-year-olds in the regulations. We don't really know. That's why we've handed to you our previous brief relating to special circumstances and how they're dealt with. Let's say you're 16 or 17, you are receiving social assistance and you try to go home to work it out with your family. You will then be cut off from social assistance. If you get beaten up and you have to leave home again, you can't apply for social assistance again. Already, the current system is too harsh on this group and does not allow them to access services. There are already fundamental problems, and we're not sure what's going to happen under the regs. That's a real problem. We can't have a free and open and democratic discussion about it because, as I said, it's a mystery.

Those are the points I wanted to highlight at this time.

Mr Carroll: Thank you very much for your presentation. By the way, parents of preschool children will be exempted from the requirements of the workfare program. That will be done in regulation. That is one of the policy intents of the bill, so that will be taken care of in the legislation.

You talked about 16- and 17-year-olds who are very capable in your estimation. Are there some who aren't?

Ms Scott: Like any age group — I know people my age or people 25 or 26 who are incapable. Of course there are some who aren't, and those usually are young people who are already in a treatment facility or something like that. They're not the ones who are living on their own. Usually they are in the system already. Those who are out, who I've seen, have been completely capable to take care of their own affairs. That doesn't mean that, like you or I, they might not need help from someone. Everyone might need some help from an outside resource, like a guidance counsellor or someone like that. Those services are certainly valuable. There are incompetent people of all ages.

Mr Carroll: How would you suggest we deal with those 16- and 17-year-olds who would have trouble managing their social assistance?

Ms Scott: I would suggest that if they are incapable, then the substitute decision legislation would kick in and they would have a trustee under that act with standards and appeal mechanisms that apply to treating that person in the best interests etc. We already have a piece of legislation. Why create mechanisms in another piece of legislation and more bureaucracies?

Mr Carroll: You would force them into that system, would you?

Mrs Papatello: The parliamentary assistant continues to refer to regulation as though that's some sort of comfort for us. When this government was first elected, it changed regulation regarding 16- and 17-year-olds which in fact booted many of them off the system, and now is coming forward with new legislation. We won't know about changed regulation. It doesn't go through the House. It's not open to debate. The only time we hear about it is when it has already happened and the people have already been tossed off.

We are concerned, especially about the young people, the 16- and 17-year-olds. They're not cute any more, so the public doesn't look at them as warmly. They're usually gawky teenagers who are very awkward etc, and it's difficult to have that kind of sympathy for that group that is facing some significant difficulty.

Your opening remarks were quite interesting. The people you deal with are young people who truly are in some situation at home. I think even the most right-wing of Reformers at present in our government caucus today would have to acknowledge that there are teenagers who truly have difficulty because they do come from very difficult family situations.

Ms Scott: That's right, and that child welfare legislation no longer applies to someone who is 16 or 17 years of age.

Mrs Papatello: A very important point. Children's aid isn't there for them. For the most part, if any of those right-wing Reformers thought back to when they were 16 years old, they would probably still in many cases say, "When I was a kid," because many of them are children at 16 and there's not a lot of protection for that group.

Mr Kormos: You caused me to take a look at section 13 again — when I first read it and saw "dependant," I'm thinking "dependant spouse," but of course a dependant is a dependant child, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 years old — "...in prescribed circumstances...require an applicant, a recipient, a dependant...to agree to reimburse the administrator for the assistance to be provided." That's just incredible. The difficulty is, we don't know what the prescribed circumstances are.

Ms Scott: That's right, we don't.

Mr Kormos: We can appeal to the government to make a commitment now to say it doesn't mean children. But even if it does mean a spouse — because it's similar to the overpayment provision, which is restricted to a spouse, it appears, 21(4). That means if a man and woman, husband and wife, spouses, with or without children, are receiving assistance because they're unemployed and they're poor and there is an overpayment through no

fault of anybody, if that relationship breaks up, let's say, because of violence — and we've heard evidence that a big chunk of women are on social assistance because they're victims of violence. That's clearly a large, single, identifiable group of women who are forced from lives where there are incomes from jobs into poverty and social assistance. In that case a spouse, in a similar case to a child, could be called upon to pay an overpayment for something they weren't even the applicant or recipient for.

Ms Scott: Yes. I don't think it's clear that children are excluded from the overpayment recovery as well. I can't pinpoint the section, but I think it's in our brief. Perhaps defaulting on the agreement can be treated as recoverable. I don't think it's clear that they're exempt either.

The Chair: Thank you very much, Ms Scott, for your very thoughtful presentation. We appreciate it.

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SCARBOROUGH COMMUNITY LEGAL SERVICES

The Chair: Could I ask Scarborough Community Legal Services to come forward, Nancy Vander Plaats and Hudson Janisch. Good evening. Thank you very much for being here.

Ms Nancy Vander Plaats: I am Nancy Vander Plaats, with Scarborough Community Legal Services. With me is Professor Hudson Janisch from the faculty of law, University of Toronto. I'm here because of my experience daily with the problems that people on welfare face dealing with how laws and policies affect their lives. Professor Janisch is here because of his years of thinking and teaching about what necessary conditions there are for fundamental fairness in a society ruled by law.

I've prepared a few written comments that you have, that were based on observation of the hearings yesterday and some of the comments that were made. It's part of my job to be here, because it's part of my job not only to help people with individual problems but also to advocate for the legal welfare of low-income people. That includes law reform and processes such as these.

I'm not going to go through all those points, but given the kind of discussion that came up yesterday and today, where the government repeatedly talked about its intentions, intentions that are different from what it says in the act, I thought I would just put those on a handy little sheet that might help members of the committee when they're reviewing the amendments later on.

By the way, I have read the bill. The minister suggested people should read the bill. I've read it lots of times. Also, Alan Borovoy read the bill, the other deputants who have come here have read the bill and we know what it says versus what the government says its intentions are. Perhaps in some cases the government wasn't quite aware of how far the drafting of the legislation went beyond their intentions and, if that's the case, of course they have the opportunity to remedy those things during the amendment process.

The only other thing I wanted to bring to the attention of the committee was the people who have not been heard. Some of them have been mentioned today. There has been one presentation made on behalf of abused women and children. There has just been a presentation, one, made on behalf of youth. There has been very little mention of the people in the category 60 to 64, although the municipalities are concerned about those because they're going to have to cope with what in the world you can do with those people struggling to survive on welfare subsistence levels with no prospects for meaningful employment. One more group that not anybody that I've heard has mentioned at all in the two days is aboriginal people. No group of aboriginal people was given standing at the Toronto hearings, even though Toronto has the highest number of aboriginal people in Ontario. Please think about that and carefully read any written submissions you get on that issue.

With that, I'd like to turn it over to Professor Janisch.

Mr Hudson Janisch: My name is Hudson Janisch. I teach administrative law at the University of Toronto, just across the road here. I've been doing so for some 20 years, and taught at the University of Western Ontario and Dalhousie for 10 years before that.

A number of administrative law teachers have expressed interest in this legislation and put our names forward to make an appearance before this committee, but none of us were lucky enough to make the cut. However, I was very fortunate in that Nancy Vander Plaats very kindly invited me to join her briefly here today, so at least you're going to hear from one professor of administrative law in your deliberations on Bill 142.

My focus is on the creation of the new Social Benefits Tribunal. The point I want to emphasize is that over the last 30 years there has been a steady increase in the role played and the respect achieved by administrative tribunals in Ontario. Indeed, judicial deference towards administrative tribunals is a hallmark of contemporary administrative law.

But this increased public and judicial respect for the work of administrative tribunals has only come about because great care has been taken to ensure the independent decision-making and integrity of administrative tribunals. Without independence and integrity in decision-making, there will be a lessening in judicial respect, with the result that already overburdened courts will have even more to do.

I see four problems with Bill 142 in this regard, all of which I think are fairly readily remedied.

First, there is no provision for any tenure for the members of the tribunal. Security of tenure for fixed terms is an essential prerequisite to judicial and public respect. The Supreme Court of Canada, in recent judgements, has emphasized very strongly that there must be tenure for the members of administrative tribunals if they're entitled to any respect, certainly any respect from the courts.

Second, ministerial policy statements in the form of regulations as provided for in subsection 74(2) which "shall be applied in the interpretation and application of this act and the regulations" completely eviscerates inde-

pendent decision-making by the tribunal. Why should parties take a process seriously if they know that any small victory in interpretation or application may well be snatched away by ministerial override? Why should the tribunal take its own processes seriously under these conditions? Why should the courts treat tribunal decisions with respect if they can be swept aside by ministerial fiat? At the very least, the bill should require that the policy statements be confined to general, not specific, matters.

Third, there should be a specific requirement in the bill that the tribunal give reasons for its decisions. Without reasons, a right of appeal is valueless. In any event, the courts are bound to read in a right to reasons. I would argue that one should seek in the legislation to get it right from the outset, thereby saving a great deal of time, money and confusion. Let me emphasize again that the courts will simply say you have given a right of appeal on a question of law to the Divisional Court. You have provided no statutory provision for reasons. The court will impose a requirement of reasons. You can't have an appeal and no reasons. It's a contradiction and it's going to cause an awful lot of trouble if you go ahead with the legislation as it is.

Fourth and finally, an outline of the general procedure to be adopted by the tribunal should be set out in the bill itself, not left to the regulations. Procedural details may, and indeed should, be delegated, but even then the tribunal should be involved in designing the specifics of its own rules of procedure.

I come, then, to support the notion of this legislation and the new Social Benefits Tribunal, provided the committee is prepared to address the four matters that I've tried to draw to your attention. I hope one would recognize that effectiveness, public respect and cost savings will only be achieved if administrative tribunals are set up in a proper fashion from the outset.

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The Chair: We have a couple of minutes for questions, beginning with the Liberal caucus.

Before we do, I want to comment on two things. First, we had 142 groups ask to appear and we could only accommodate 40 under the government time allocation rules, and that could only be done by giving 15 minutes. Second, we did have one application only from an aboriginal group, the Aboriginal Legal Services of Toronto. They have sent us a submission which will form part of the formal proceedings. I just wanted to clarify that.

Mrs Pupatello: Two minutes, Chair?

The Chair: You have just under two.

Mrs Pupatello: Thank you so much for coming, both of you. We wish we had more time. I am pleased you spoke in your initial remarks regarding the lack of appeal process in this bill. Can I ask you for your opinion, either one of you, would a court case be successful if it were launched in regard to 16- and 17-year-olds being thrown off the system? As it is in the bill currently, it will be purely because of an age factor. If it were taken to court, would that stand up in court?

Ms Vander Plaats: Are you a charter expert, Mr Janisch?

Mrs Papatello: Could I have both of you make a comment on that, please?

Ms Vander Plaats: Of course that's an interesting point that relates to the tribunal and some of the other little things in this act, in that the current tribunal has ruled on that question and has decided that the old special circumstances provisions related to 16- and 17-year-olds are discriminatory. That decision is before the Divisional Court now. So the current tribunal has ruled on that. This bill, among many other things, is going to take away that power of the specialized tribunal. This government, in another court case, talked about how this specialized tribunal had to be the one that comments on charter issues in a spouse-in-the-house case, yet in this bill they are taking away the right of that tribunal to interpret the law.

Mr Kormos: Ms Vander Plaats, in view of the kind of work you do and the people you serve — you make reference to section 74, because the government stated its intent to cease what it identifies as the issue of paying assistance to people who are serving custodial terms. I put to you the case of a family where there are two family adult members and one is incarcerated. Presuming there are children, the family has living expenses that are based on that family, and if a person is incarcerated for 30, 60, 90 days, that family's living expenses don't substantially change. There may be a modest diminishing of food costs, but electricity, heat, gas, rent stay the same. Can you comment on that from the work you've done as an advocate?

Ms Vander Plaats: Clearly assistance should be provided to that family. Perhaps they intend to do that, but the problem with stating that whole classes of people should be ineligible is that does far more than what their stated intention is, which is perhaps just to deny eligibility to the actual imprisoned person.

Mr Klees: My question is to Professor Janisch. With regard to your recommendation that fixed terms be assigned to the tribunal, based on your experience, knowledge and understanding of the intent of this tribunal, do you have any recommendations for us in terms of what fixed term might be appropriate?

Mr Janisch: That question has been raised a number of times recently, and in the courts in fact. I think what appears to be coming out of that is that a three-year term with the potential for renewal is the ideal arrangement. In other words, there were some situations in perhaps the bad old days when tribunals got very long terms and I think there was a danger of abuse, but for the pendulum to swing all the way the other way and to say no fixed term at all — three years with an opportunity for one renewal would seem to me to be an appropriate term.

The Chair: Thank you very much, Professor Janisch and Ms Vander Plaats. We really appreciate your presentation this evening.

ROGER STRICKLAND

The Chair: Roger Strickland is next. Make yourself comfortable. You have 15 minutes to make your presentation.

Mr Roger Strickland: Thank you for this opportunity. I hope I'm not bumping some other people who are more deserving, with all these groups that are trying to get in.

I'm a recipient presently on general welfare assistance, temporarily ill with a neck problem and complications that prevent fixing it. I'm interested in this bill because it could be a big help or a big hindrance to me or anyone else in a similar situation, depending on what some of it means. I wanted to be sure that it meant what I hope it does, or suggest changes at this point. I saw one or two areas where I thought I might possibly be able to contribute something useful.

I've handed in a submission on it. It's brief. It's five pages, six items. I hope you read it, in particular items 1, 5 and probably 6, which may possibly amount to improvements. I'll try to touch on them shortly.

For the disability support act, I was happy to hear at second hand yesterday that Minister Ecker has said parts of it are ambiguous and will be clarified, particularly on eligibility, where apparently, for example, a substantial restriction in the workplace alone would qualify a person for disability support of some form. Of course, someone who is also restricted and turning to personal care and so on is very much in need and deserving of more support, but a person unable to work for an extended period also needs help.

Similar to what I'm talking about might be at the level of detail where it would belong in the regulations. Hopefully this committee can, if not change the act, leave instructions somehow or suggestions or whatever to whoever is doing the regulations to see that they cover what was intended.

For disability support and especially for Ontario Works, because of the income level they will be at, I hope there is coverage for those who through misfortune have a large amount of unavoidable, usually health-related costs which are not specifically covered under the rules.

As a specific example, at present under general welfare a person with a narrow-range food tolerance version of Crohn's disease and a little oesophagitis can need \$50 to \$60 per month for antacids and specialty foods to prevent the conditions from worsening, just under \$20 of which is covered. If you throw in a very possible further \$20 a month of miscellaneous, unavoidable health-related items not covered, you're looking at a net \$60 per month unavoidable extra expense not covered under the rules. At the income level for general welfare, or I assume a similar level for Ontario Works, you can't lose \$60 a month and still balance the budget. Either you have to get extra money somewhere or your health is liable to suffer. Possibly you could wind up in the hospital if it's a Crohn's disease kind of thing all because you're a few bucks short at the end of the month.

You can get stuck if you happen to need a lot of little things they've backed off of. They used to cover a lot of things but then they stopped because times were tight and they didn't have the money. They stopped covering antacids; they stopped covering other things. If you're hit with a lot of little things that aren't covered or if you're hit with two or three that are significant, they can add up. Then you're in trouble at the end of the month when you need some money for food and you haven't got it.

What I'm suggesting here is that maybe if you have a \$20 deductible, shall we say, from every recipient, that they have to pay for the first \$20 of stuff that's unavoidable, that's health-related, that they have to have that's not covered, but if anybody gets over that, \$30, \$40, \$50 after that, it's covered, this would eliminate an injustice to a minority. It would get a minority of recipients out from under the eight-ball, because once they're over that \$20 the rest is covered and you don't wind up — you have to pay for stuff and you haven't got the money for it.

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I hope also that under the disability support plan, section 4(1)(a), a person will be considered disabled if the physical or mental impairment is expected to last a year or more for any valid reason and, in addition, where reasonable resources might do the job, financial support or assistance be provided to try to remove any type of barrier in any situation, medical or otherwise, that prevents the person from getting rid of or clearing up the disabling impairment or the ailment underlying it.

In the disability support program it allows for provision of employment supports for removal of barriers to employment. I thought that was a good idea. I thought that wasn't the only good idea in the act either, but I like that one. This idea is a bit of a takeoff on that. In rare cases you can have a disabling impairment that can maybe be got rid of, but there's some barrier stopping you and assistance in removing it could be a big help.

Types of situation where this can occur would be where there's an impairment and some treatment might clear it up but it's not fully proved and accepted, so the cost isn't covered by OHIP or by any drug plan. For example, if a person had a disability and a major part of that was due to osteoarthritis, there's something called glucosamine, which maybe really works now, maybe there's a 50% chance it would work and he wants to try it, but it's not covered so it's extra money and he hasn't got it.

There can be a primary impairment disabling a person and a secondary problem preventing resolution of the first one, with the second problem in a relatively unknown and risky medical area where some careful research is needed before proceeding safely. The person may not have the time, the money or the knowhow to get that research done. It can be more complicated than that where non-medical circumstances are stopping a person from getting at safely resolving whether an impairment can be cleared. The barrier to getting rid of an impairment is at least as frustrating and damaging as a barrier to employment.

This thing could be handled perhaps by defining a barrier to clearing an impairment as another form of barrier

to employment under section 32 of the disability act — you just get them all in the same bag, so to speak — or because of the rarity it could go in the regulations, but because it can occur in complicated or unusual circumstances, it is best worded as any barrier to clearing an impairment in any circumstances.

It would be nice to know, and I think this flexibility was intended, that no matter how unusual, complicated, unique a situation is, if reasonable extra resources might clear a barrier either to employment or to getting rid of an impairment, these resources will be applied.

Finally, I hope that Ontario Works recipients won't be urged to do community participation work in circumstances where training or job search activities are potentially more productive for securing suitable employment. The idea here is that from my experience, whenever I've been looking for a job I've always found the best way to do that is to make it full-time, to make it a job, to make looking for a job a job, and that's like 35 and 40 hours a week. Once you get where you're really working at it, with more momentum, you get more familiar with what you're doing and you get confident. It feels like you've got a job as opposed to looking for a job.

I used to have a goal that if you push this thing until you get to where it looks like you're going to get offers on three good jobs, then you're going to get one on one of them. You know for sure that's going to work, but you can't do that, or I found you couldn't do that, if you're only working a couple of days a week on it, because you get off it, you just haven't got the pursuit, so to speak, on the thing.

I would be concerned that if there's any kind of a job market out there, and if there's enough work for somebody to do — even if you're not looking for a job, you can be trying to develop the energy, you can be going to libraries, you can be trying to find out where you should be, how you should be pursuing it. You don't have to just look at ads in the newspapers. If there's enough work, and a person wants to go after a particular area, I think you get better results in letting them go right after it, rather than in diluting it and having him do his community participation.

In an instance where a person has been trying for a long time and nothing is working and they've lost all confidence in everything, and if this community participation would involve the sort of situation where the person is rubbing shoulders with people who have some connection to something that is the kind of work that person will be interested in, that's different. In that kind of circumstance, it might be a good thing. But I would think that in most circumstances you would want to be very careful to let the person go after the type of work they're after, focused, self-directed, rather than kind of a community thing to start with.

That's everything I wanted to say.

Mr Kormos: Thank you, Mr Strickland. Unfortunately, because the government has only allowed two days of hearings in Toronto, we haven't heard enough of the perspective you provide today, and that's a very direct, immediate, honest, candid approach to this issue. I appre-

ciate the fact that you were able to get on to the list and I want to thank you for joining us tonight. Thank you kindly.

Mr Strickland: Thank you very much.

Mr Carroll: Thank you also, Mr Strickland. In the Ontario Works issue the objective of Ontario Works is based on the presumption that the only way out of poverty is through work. Everything on Ontario Works is designed to help the person get to a meaningful job, so I have to tell you that if job searching 40 hours a week is what anybody chooses to do, if that's what somebody wishes to do on Ontario Works, I'll guarantee you that will be acceptable.

Mrs Pupatello: You brought a great perspective for us in terms of individuals who really are truly looking for work. Governments of all stripes for several decades have moved towards a system that makes welfare one that works in employment supports and encouragements and training to get to work.

I just want to mention an example of a northern community that is involved with workfare. In these budget cutbacks to municipalities from the Conservative government they've laid off some of CUPE in this northern community, and part of their workfare project is to have welfare recipients painting park benches. I can pretty much guarantee that those individuals are going to be trained in painting park benches, but there is not a northern community that's going to hire them with this new training they're receiving.

There we have the conundrum. We have community groups out there in communities actually implementing their workfare and it's really not in the end related to proper education and training programs that will eventually lead to a job. We just wish some of that would rub off on the government through these public hearings. I don't have a lot of hope that's the case, but we know that's unfortunately what is happening with workfare.

The Chair: Thank you very much, Mr Strickland. We appreciate the unique perspective you've brought here this evening. We're very grateful for your presence.

ONTARIO FEDERATION OF LABOUR

The Chair: Could I ask the Ontario Federation of Labour, Duncan MacDonald, to come forward. Welcome, Mr MacDonald. We're happy to have you here.

Mr Duncan MacDonald: On behalf of the Ontario Federation of Labour, I would like to thank you for the opportunity of appearing before the standing committee on social development to discuss Bill 142, the Social Assistance Reform Act, which was introduced in June of this year.

We are here today because the labour movement believes it must join other concerned individuals and organizations to oppose Bill 142. This proposed legislation is another example of this government's schoolyard bully tactics adapted to a legislative setting. This proposed legislation is wrongheaded, cruel, and seeks to scapegoat fellow citizens who are portrayed as unmotivated drones who are a burden to society. There's always been a con-

stituency which believes such foolishness. Unfortunately now some of these true believers are in policymaking positions within the provincial government.

This view is not shared by the labour movement. The labour movement has a broad perspective on the social service sector. It's a perspective comprised of a number of elements, including workers in the social service sector who are dedicated to their profession but often frustrated by existing policy and procedures; workers who become involved with the union counselling program which increases their understanding of the political and economic context of the social service sector and which allows them to provide useful services for their co-workers; workers who are active serving on boards or as volunteers with social agencies; and workers who have in the past used or continue to use existing social agencies.

From our perspective we have always believed that as a society we have a responsibility to each other. An important vehicle for accomplishing this is government, which for us has a responsibility to ensure the people of Ontario have access to quality services when and where they are needed. At the founding convention of the Ontario Federation of Labour in March 1957, a resolution was passed which called on the Ontario government to "accept their responsibility and bring about a realistic program of public welfare based on current needs...a program that will provide and maintain a minimum standard of health and respectability both physical and emotional." This was true in 1957 and it is still true in 1997.

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In the few minutes available for our presentation, we will briefly touch on a number of points: (1) the philosophy and record of this government; (2) the kind of social assistance system we need in Ontario; and (3) the labour market and the issue of workfare.

First, the philosophy and record of this government: There has been a tradition in Ontario politics of governments of all political stripes engaging in meaningful consultation regarding their legislative agenda with a wide range of individuals and organizations across Ontario. This was not because these governments lacked a vision of what they believed was needed. Rather it was because these governments saw that it was useful to both understand the experiences and concerns of those involved with the issue and try to build a level of understanding and possible political support for their government's legislative agenda.

The present government does not subscribe to this tradition. Like the zealots of old, they understand the issue completely, regardless of its complexity, and know their solution is the only solution. There is no need to talk about this with anyone who is not already committed to the solution. Power and decision-making is centralized at the cabinet level but more often in the Premier's office. Opposition parties, interested parties, the general public and even the government backbenchers are seldom, if ever, involved in this process. Where independent tribunals or boards exist which could question the government agenda,

their past practices and procedures are ignored and their membership changed to be more government-friendly.

Bill 142 is the latest example of this approach. These hearings can be seen as little more than the government going through the motions. There is little opportunity given to the people of Ontario to share their experiences and concerns with their elected representatives. Bill 142 in its present form is an empty vessel. Much of the substance of this bill is left to be filled at a later date by regulations, the cabinet, the Minister of Community and Social Services or their designate. Opportunities to challenge the substance of Bill 142 when and if it becomes law are limited in scope and involved in process.

One area of particular concern is the opportunities provided in Bill 142 to privatize services. We believe this is an abdication of duty on the part of government. It would result in the erosion and loss of existing services for users and employment for providers. This would have a negative impact in communities across Ontario. The people of this province would have little opportunity to have input into policy development, implementation or review. As taxpayers, they would be faced with cost overruns, which seem to be the norm.

Members of this committee have an obligation to examine in detail all the experiences in other jurisdictions. Much of this information is already in the public domain and has been presented to you in the course of these hearings. If needed, this information could be supplemented by the staff of the Ministry of Community and Social Services.

Extensive public hearings could have provided an invaluable opportunity to discuss what is needed in a Bill 142, obviously not the wish of this government.

Social assistance in Ontario: In its "Principles for Reform," Transitions, the 1988 report of the Social Assistance Review Committee, it put forward the following definition, which we subscribe to:

"All people in Ontario are entitled to an equal assurance of life opportunities in a society that is based on fairness, shared responsibility, and personal dignity for all. The objective of social assistance, therefore, must be to ensure that individuals are able to make the transition from dependence to autonomy, and from exclusion on the margins of society to integration within the mainstream of community life."

The views of the people of Ontario were sought out and heard by this committee. This is a far different vision than that put forward by this government in Bill 142.

This government has shown it is quite willing to engage in the exercise of identifying and punishing a particular group as a means of building and maintaining political support. The name for this is scapegoating and throughout history it has often been successful. In this case it is the poor and needy who are the scapegoats.

By not sharing the facts, the government encourages the belief that the decent, hardworking people of Ontario are being defrauded by the people on social assistance.

A simple point to be made is that administrative error which results in overpayment or underpayment should not be equated with fraud.

Another point is that during the course of these hearings, this committee has been given information on the experiences of a number of organizations, the Ministry of Community and Social Services and Metropolitan Toronto, which have examined their case files for cases of possible criminal fraud. In both cases, the result was that less than 0.5% of the caseload was involved in any criminal fraud referral to the police.

Of particular interest is the record to date of the government's own welfare fraud hotline, which was established in 1995. As of March 1997, of 18,655 calls, a total of 92 had been referred to the police, 32 had actually been referred to a crown attorney and there had been 18 charges and nine convictions. This at a time when over 600,000 people were getting social assistance every month as single or as heads of families. An interesting aside to this approach is that when Metropolitan Toronto had a fraud line in 1992, they found that less than half of the people reported were on assistance.

It is sad that democratically elected governments would want to use the centuries-old tool of authoritarian regimes: that of encouraging citizens to spy and report on each other.

Our concern is that the government wishes to use Bill 142 as a legal gauntlet to decrease the number of our fellow citizens who need some form of assistance at this point in their lives. By changing definitions and procedures, it will become harder to receive and keep receiving social assistance and easier to lose it. This will only increase hardship for many of our fellow citizens across Ontario. This is a hardship which the government knows has increased because of the welfare allowance cuts in October 1995 and the many other cutbacks of programs.

This government is quite aware of what kinds of programs and supports could assist those in need in our province, but their higher priority is paying for their tax reduction, which they view as the vehicle for their reelection.

The labour market and workfare: The realities of the present labour market pose a serious challenge to those entering or returning from a period on social assistance. Are there enough jobs for the officially unemployed, those who have stopped looking, the discouraged workers, the involuntary part-timers who are looking for full-time work and those presently receiving social assistance? There is the rise of part-time and non-standard work, temporary, seasonal or contract, multiple job holding and self-employment. There is the relationship between a person's chance of leaving social assistance and their education level. Many poor people work, but this does not guarantee an escape from poverty.

There is a polarization of earnings in this country. The condition of low-wage earners is deteriorating as their numbers increase. This government's labour market agenda, such as freezing minimum wage, cutting back on

pay equity and labour relations amendments, contributes to this deterioration.

What people want and need are opportunities to upgrade their education and skill levels. They want and need employment supports such as access to quality, affordable child care when they are seeking or at work. This should be seen as an investment in the future social stability and prosperity of our province.

Instead this government is attracted to the concept of workfare, which for us means mandatory unpaid labour as a condition of eligibility for social assistance. With the demise of the Canada assistance plan and its replacement by the Canada health and social transfer, provinces can now implement programs such as workfare. Workfare schemes are useful by making the system more complex with more opportunities to decrease numbers receiving assistance because now more recipients will no longer qualify. It is a form of punishment imposed on people who have not got the resources to resist its imposition. It creates a pool of second-class workers who can be used or ignored depending on need or whim.

There are a number of questions that we'd like to put to the committee if we could. Members of this committee, especially those from the government side, have a moral obligation to speak out against the imposition of workfare in any sector of Ontario society.

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There are a number of questions which should be asked. Do you believe that a class of citizens in Ontario should be working but not have the same legal rights and protections as other citizens? In spite of this lack of rights and protections, do you support the exploitation of these workers? It happens in workfare programs in the United States, and there is no reason to believe that it would not happen in Ontario.

Aspects of workfare programs in other jurisdictions such as New York state are being challenged successfully in the courts. Do you want the resources of our province wasted on lengthy court cases? This program will be challenged, and challenged successfully.

Do you support the replacement of public sector workers, who are currently providing needed services and who are taxpayers, consumers and activists in their community?

Do you want to support a program such as workfare, which undermines the efforts of the working poor who are trying to advance themselves? The New York Times, April 1, 1997, reports that this is happening in the United States, and it will happen here.

Do you want to support a program that could use workfare participants as scabs/replacement workers against other citizens of Ontario engaged in their legal right to collective bargaining?

Do you support the "voluntary participation" of workfare participants in a wide variety of activities, such as that proposed in Haldimand-Norfolk, where the idea was for them to dress up as characters from the works of Charles Dickens — likely *A Christmas Carol*, not *A Tale of Two Cities* — during the holiday celebrations in Sim-

coe? This kind of "voluntary participation" has a long history. Another English example could be the painter Morier, who very likely would not have created his work, *Battle of Culloden*, 1746, if he had not had the voluntary participation of captured Scottish Highlanders who posed for him. These "volunteers" were provided by the British army.

In the United States, the labour movement is actively supporting workfare participants to know their rights, to fight for them and to organize themselves. Rest assured the same thing will happen in Ontario.

We believe that Bill 142 should be scrapped. We as a province should return to the model put forward in *Transitions*. To account for any fundamental changes since 1988, there should be extensive and real consultations with all interested parties. This new social assistance strategy should be a component of a wider economic and social strategy based on the ideas put forward in the Ontario alternative budget papers of 1997.

While such a fundamental change of direction is not without historical precedent, it is not likely from this government. The Ontario Federation of Labour therefore suggests that this committee study in detail and endorse the many positive suggestions put forward by such groups as the Ontario Social Safety Network, the Ontario Public Service Employees Union, the Canadian Union of Public Employees, legal clinics and consumers. These suggestions will help make a bad law a little less bad.

The Acting Chair (Mr Bruce Crozier): Thank you, Mr MacDonald. Time has expired.

ONTARIO ASSOCIATION OF SOCIAL WORKERS

The Acting Chair: The Ontario Association of Social Workers is next. If you will introduce yourselves for Hansard, you may proceed.

Mr Dan Andreae: My name is Dan Andreae. I'm president of the Ontario Association of Social Workers. I'm joined by Joan MacKenzie Davies, the executive director, and Dorothy McKnight, who formerly worked with the Waterloo regional social services department for 11½ years, engaged in therapy and disability assessment for clients. The fact that they are on my left is of no political significance, but we're here at any rate to talk about Bill 142.

The Ontario Association of Social Workers, OASW, wishes to respond to Bill 142, the Social Assistance Reform Act. This act replaces the Family Benefits Act, the Vocational Rehabilitation Services Act and the General Welfare Assistance Act with two new acts: the Ontario Works Act, of course, and the Ontario Disability Support Program Act.

Our association has a long history of reviewing and responding to the social assistance system in Ontario. In light of the fact that professional social workers are at the front lines of dealing with people with a multiplicity of problems, many of whom include those who are disabled

and/or of low income, we have developed expertise in the impact of social assistance programs on these populations.

The OASW is a bilingual membership association, incorporated in 1964. It's one of 10 provincial associations of social workers belonging to the Canadian Association of Social Workers, which is in turn a member of the 55-nation International Federation of Social Workers. OASW has 15 local branches and three chapters across Ontario, in all your ridings. OASW has approximately 3,100 members. The practising members are professionals in a variety of practice settings, with university degrees in social work at the doctoral, masters and baccalaureate levels.

First, OASW commends the government for introducing legislation that encourages the empowerment of the individual; for instance, there is emphasis on employability as opposed to dependency. The thrust of Bill 142 in supporting empowerment is consistent with social work values and principles. The association reviews aspects of legislation from the perspective of our values, which should also include and do include dignity and respect for the individual, autonomy of the individual and universal access to services by every Ontario citizen. We are experienced in helping people to minimize their dependency on the welfare system, and within this context we offer the following comments regarding Bill 142.

With regard to the Ontario Works Act, OASW acknowledges the long-standing challenge of getting social assistance recipients into the labour force and out of the welfare system. We support this goal, as our professional experience has shown us that with few exceptions, the majority of social assistance recipients are willing to move into the workforce if they can find jobs that are within their capabilities and meet their need for financial sustenance. They want to work.

Today, however, the challenge is especially daunting and frightening, given the shrinkage in the number of jobs available due to globalization and free trade, and other avenues as well, together with the fact that the labour force needs in Ontario are highly technical and require skills beyond the present capability of many of the unemployed.

However, there must be provision made for those people who are of low intellect, who have an array of educational limitations, emotional disorders and minimal social skills. Despite the availability and quality of job training programs, it would be difficult to sustain these individuals in the existing highly competitive and increasingly lean and mean workforce.

In addition, the association has specific concerns about the lack of services for 16- and 17-year-olds. We understand that financial assistance would not be paid directly to young people under the age of 18 except under "exceptional circumstances," and only if the young person is attending school or an approved alternative learning program, and where possible it would be managed by a guardian.

We are concerned first about how "exceptional circumstances" would be defined and whether there is room for discretion under the proposed legislation. Second, al-

though reference is made to guardians, this may be unrealistic as this age group, as you know, frequently encompasses youths alienated from their families who may not be connected to responsible adults. This population is of particular significance in terms of the long-range costs to society if the unique problems they pose are not adequately addressed, and therefore end up costing us more money down the road.

Another category of people, the seniors, roughly 60- to 64-year-olds, currently receiving financial assistance under the Family Benefits Act are at risk, we believe, under the proposed legislation of having their income reduced through their inclusion under the Ontario Works Act. The expectation that adults in this age group receive job training towards employment seems unrealistic.

Many sole-support parents, most of whom are women, on social assistance are already participating in the labour force, or would be, if they could find jobs that provide reasonable income and flexibility, given their dual responsibility for the provision of child care. They'd be there if they could be.

Other sole-support parents are prioritizing the care of their children, and their valuable role in society should be recognized and supported. Bill 142 does not explicitly exempt sole-support parents from participation requirements in employment-related activities, nor does it specify the children's age when mothers would be expected to comply. The exclusion of this information in the proposed legislation leaves the door open for reinterpretations of the expectations of employability of sole-support parents under the OWA. Furthermore, the conspicuous omission of this population suggests a devaluing of the parents' responsibility for child care.

We are also concerned about welfare fraud. However, social research has consistently shown fraud to be in the range of about 3%. We'd be prepared to show you the social research that does indeed back this up. It surprises many people, but it's true. The targeting of limited personnel resources to combat existing and potential welfare fraud, in addition to the extension of search warrant powers to social assistance workers, are disproportionate to the evidence of fraud. Similarly, we believe there is a serious potential for human rights violation with respect to the proposed search warrant powers ascribed to social assistance workers, together with the requirement of digital imaging for social assistance applicants.

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While it is a positive step to embed an internal review process in the proposed legislation before an appeal does take place, the prescribed period in which the internal review would occur is not specified. If the process were lengthy, it could pose severe hardship for the client. If a welfare administrator believes the request for an appeal is frivolous, the client will be denied the right to due process.

The Ontario Disabled Support Program Act: We support the government for recognizing the inappropriateness of the grouping of the disabled within the current social assistance program. OASW has serious reservations, however, about the narrowness of the definition of

"disability" in the proposed legislation. The ODSPA is potentially more restrictive because, in stipulating specific conditions which must be met to qualify, a significant group of low-functioning individuals with emotional problems could indeed be excluded. I hope we're wrong.

Also, in the absence of regulations, concerns arise regarding the implementation of this act. Since multiple barriers, including health problems, may interfere with an individual's ability to obtain employment, it is unrealistic to expect that individuals who do not meet the new definition of "disability" will be able to participate in mandatory work programs despite the additional resources.

In closing, we cannot overstate the importance of services and programs taking into consideration vulnerable populations, and the need for opportunities for self-sufficiency. Although we agree with the government that the current social assistance system needs to be overhauled, we are gravely concerned that there are aspects of the proposed legislation which could and would create new problems that would have a major impact on the disadvantaged. Hence, there needs to be flexibility and special consideration given for those who are vulnerable.

Nobody around this table, I'm sure, would promote or advocate that these issues be looked at outside the context or bounds of fiscal prudence, efficiency, accountability and value for taxpayer dollars. These are critical issues through the prism of which any legislation should be looked at from our perspective. Social workers have had to make many, many tough decisions involving the bottom line over the past several years. It hasn't been easy. Some of the decisions have been hardheaded and have been very difficult, but we understand the need, with limited resources, to live within bottom lines. We're on your side that way.

Yet we can never forget that we're dealing with people here, and human lives. These are the lives of people you know. They are your constituents, they are your colleagues, they are your friends, they may even be your family, people you care about. As you prepare this legislation now, it's important to remember we are attempting to convey certain messages to you. One is that these issues are indeed complex, definitely. There's almost a domino effect in that once you affect one area, it will have ramifications in another area. Therefore, they defy simply solutions. There are no easy answers to these difficult questions. When you make recommendations on policy, you may be opening up avenues that need to be looked at down the road.

Therefore, this is actually an exercise in prevention. You can make the changes now to ensure that it is effective legislation so that these changes don't hurt people falling between the cracks or stuff that you have to amend later on. We're glad to be here to have an opportunity to allow you, as you will do, to have that sober reflection on these issues because they affect all Ontarians. Again, they are affecting human lives. That we can never forget.

Finally, as you listen to groups around the province here, we want to mention that we're concerned about the limited consultation process on Bill 142 — we're pleased

to be here, but we're concerned about that — which could afford you increased, valuable community input. The proposed legislation deals with a complexity of issues, making it extremely problematic that the detail of the implementation, in the form of regulations, is not subject to the consultation process.

We appreciate the opportunity to appear in front of you late at night, almost, to express our concerns, which I'm sure you've heard before and I'm sure you will hear again. We have a couple of minutes left. There are questions here. I have two experts in the field who will address your questions.

The Chair: We have about 40 seconds per caucus.

Mr Carroll: A quick statement and a question. Sole-support parents of school-age children will be excluded by the regulations from the requirements of workfare.

The internal review process: You talked about the prescribed time and your concern about that. What would be an acceptable prescribed time for the internal review process to be completed, in your opinion?

Ms Dorothy McKnight: I think it needs to be in many localities, advertised ahead of time so that the people concerned can take part in it.

Mr Carroll: I'm talking about the internal —

The Chair: Sorry, Mr Carroll. Mrs Papatello.

Mrs Papatello: The whole process of applying for and acting under a search warrant has taken the police two years of training at Aylmer college and a significant amount of mentoring once they're on the job to make sure they do the process right. When they don't do the process right, it gets tossed out of court anyway. Social workers ought to have a significant concern that they as civilians will now be deemed law enforcement officers by this legislation. I'd like your comment on that.

Ms McKnight: First of all, the majority are not social workers; they are community college graduates who have a two-year social service diploma from a community college. A social worker has a university degree.

Mrs Papatello: Any law enforcement —

The Chair: Mrs Papatello, please, you're going over your time. Mr Kormos, your turn.

Mr Kormos: This is so rapid-fire, Chair.

The Chair: My apologies. We have a lot of people waiting and the hour and it's getting very late.

Mr Kormos: I was taking a look earlier tonight at James Struthers's book, *Unemployment and the Canadian Welfare State, 1914-1941*. One of the references he makes:

"Relief arrangements: Welfare and market societies are ancillary to economic arrangements. Their chief function is to regulate labour. To demean and punish those who do not work is to exalt, by contrast, even the meanest labour at the meanest wages."

We witnessed over the course of the last 20, 25 years what is acceptable in terms of levels of unemployment: 3% and 4% unemployment used to be considered a crisis. Now 8% or 9% is considered the norm. How do we respond to those 8% or 9% who are considered by the state as an acceptable level of unemployment?

Ms Joan MacKenzie Davies: I'm not sure what your question is.

The Chair: Please don't make him go through it again.

Mr Kormos: Pardon me for interrupting, but I'm sure other people got the drift.

Ms McKnight: I think I did. I think those people, after their unemployment insurance runs out, if they have unemployment insurance, are the people who turn to welfare after they have nothing left. Many of the people were in low-paying jobs where there were no benefits and no retirement benefits and not enough money paid to them that they could ever save for unemployment or retirement. I believe they have to have welfare. They're needy.

Ms MacKenzie Davies: There's a sizeable group of people who will not be met by job training. All of us know that on a daily basis. We see them on the streets. We see them in our communities. Job training is not going to impact in a positive way. They need resources.

The Chair: I want to thank you very much for appearing here this evening.

Mr Dan Newman (Scarborough Centre): On a point of order, Chair: I ask if we have unanimous consent for Mr Carroll to ask his question. I think it was a very relevant question. The deputant misunderstood, perhaps, what he was saying. We're in these hearings to get input. Mr Carroll should have the opportunity to ask his question.

The Chair: You're putting unanimous consent on the table. Is there unanimous consent for Mr Carroll to put his question? Agreed? There is unanimous consent.

Mr Carroll: My question was: You expressed concern about the prescribed time for the internal review process. I wonder what you, a social worker, figure would be an acceptable time for that process to take place.

Ms McKnight: I believe that, first of all, the person must be kept on assistance until the appeal process has been completed and that it should happen within a three- to six-month period. In the past it could sometimes take as long as a year to hear the appeal. It could be cancelled at the last minute.

Mr Carroll: We appreciate your input.

The Chair: Thank you very much for appearing —

Mrs Pupatello: Point of order, Chair.

The Chair: Is this a point of order that involves the witnesses?

Mrs Pupatello: May I have unanimous consent to continue my question regarding the training requirements of the social service workers who are going to be given the law enforcement powers?

The Chair: Is there unanimous consent?

Mr Carroll: No.

Mrs Pupatello: Jack, we just offered you unanimous consent to hear your question.

The Chair: No unanimous consent. Thank you very much for appearing. We apologize for the way these proceedings are rushed. I wish we had more time.

May I suggest to all committee members that if there is an issue with respect to the time that's allocated, with the government motion that was put before us, we have no

flexibility here. I suggest you take it up with your government House leader.

Mr Young: May I make a suggestion, Chair? With 40 seconds per caucus, why don't you just give the question to one caucus and then revolve if it happens again?

The Chair: That would require us to have an agreement, and quite frankly, that would probably take a great deal of time, the way this is going.

2030

BURLINGTON REUSE ENVIRONMENTAL GROUP

The Chair: Isabel Cummings, thank you very much for being here. I apologize for the delay and the goings-on. We're delighted to have you here. Would you introduce your co-presenter?

Mrs Isabel Cummings: Thank you, Madam Chair, for affording us the opportunity to express our views on workfare. I'd like to present to you this evening George Pocock, who is the president and founding member of our organization, the Burlington Reuse Environmental Group, who will give you an overview.

Mr George Pocock: We're located at 3335 North Service Road in Burlington. The Burlington Reuse Environmental Group was formed by a few concerned citizens in answer to a worldwide problem, of which North Americans are among the worst offenders. The problem is the creation of so-called waste, "so-called" because a substantial percentage is, first, a reusable resource and, second, a recyclable resource. These two terms are considered interchangeable by a high percentage of people. There is a significant difference between the terms: reusables can be used in their present state; recyclables require energy to transform them into new products. The reuse centre was formed to encourage people to consider the value of reusing rather than recycling or landfilling.

What brought this concept to the attention of the Halton residents was the landfill assessment hearings in the late 1980s in Halton and, more recently, the controversy in Metro as to whether to send their garbage to Kirkland Lake or to set a match to it.

No one seems to want landfill near them. The reuse centre and like organizations are the first step in solving the landfill situation by reducing the amount of garbage produced, which is not really garbage but a source of very good usable material.

In April 1991, a committee of volunteers formed a community non-profit, charitable organization. The aim was to initiate a program to remove reusable goods from the waste stream. By January 1993, we had the support and funding of three governments, the city, the province and the region of Halton, with the initial seed money to rent space and hire a manager and an assistant. We started with 10,500 feet of space in which there was a partial tenant and we also encouraged reuse-related businesses to lease space for our cost.

For one year we operated with two staff and a number of volunteers. In the second half of the year we made use of the unemployment program in effect and had our shelving constructed by unemployed carpenters. In the second year we hired a small, part-time staff to operate the centre with a contingent of volunteers. At the end of the second year we found that the luxury of paid management did not fit in with becoming self-sufficient, and ever since we have operated under volunteer management.

Often we are asked what we do with the profits. There aren't any. All the money is required to pay the rent and other fixed costs that are part of the business operation.

The community-operated reuse centre is not a burden to the taxpayer. It replaces in part a service the city provided a few years ago and found too costly to operate: the large-item pickup. The reuse centre produces enough income now to be self-sustaining, accomplished through high volunteer participation and judicious use of anything that even looked like an expense. Our business is unique in the sense that we have absolutely no control of inventory that is usable if we are to accomplish our mission and encourage the public to do the same.

Many organizations take in reusable goods and we commend and support them. However, many are for-profit and control their inventory to produce the profit. This is not our objective. Our objective is to reverse the throw-away thinking.

Since we are trying to accomplish something new to a number of the current generation, we must in all fairness accept all goods that are usable, thus our inventory is not a controllable volume in terms of quantity. The only control we have is the quality of goods received: that all goods must be usable in their present state. This concept from time to time leaves us with goods that do not sell as quickly as we would like.

Our service is so successful that we were required to move in February 1997 to a 21,000-foot area and our requirement for volunteers substantially increased. We need assistance in all the areas listed below as well as in building shelving and a ramp to accommodate the disabled and to allow vehicles to enter the building to reduce the workload and heating costs in the approaching winter season. Some of the areas we need people in are the library, pricing items, sorting items, answering phones, assisting staff, small repairs, carpentry, operating small businesses, dusting, polishing, assisting in treasure trove, keeping the centre clean and inviting, looking for markets, electricians, handy persons, painters, craftspeople etc.

Isabel will tell you about the experience we have had with the people in the Ontario Works program.

Mrs Cummings: Thank you, George. I am Isabel Cummings, a director of the Burlington Reuse Environmental Group and also its treasurer.

Whereas we had been funded initially by the municipal, regional and provincial governments for a period of two years, we are happy to say that since 1995 we have been totally self-sufficient, a boast we have only been able to make because of the many, many hours of volunteer work from the citizens of Burlington.

During our recent move from 10,000 square feet to 21,000 square feet, we required as many workers as possible, and Ontario Works volunteers' efforts were able to add greatly to our being able to operate in a short period of time.

About our participants: Once a person has been in need of social services for whatever reason, some self-esteem disappears. We have evidence that this program provides an opportunity to regain self-esteem, work habits, get into the habit of working regular hours, and provides on-the-job training and, perhaps above all, interaction with regular people who can become a support group. It would appear that many participants were quite apprehensive, indeed fragile at first, and it seems our volunteers have given the Ontario Works program volunteers an increased opportunity to network. It is possible that we have been blessed in some way, because we have had people who are anxious to work and give back to the community with a view to finding a permanent job.

This program allows for a transition from being totally out of the general workforce to working with a caring group with a need for the participants' services, and they in turn recognize their worth to our organization.

As a citizen of Burlington and a Christian, my life has been made all the richer by this workfare program and I thank you for that.

Some thoughts that I would like to share: I would like to see that we have a practical, certified safety course given to participants so that they are up to date on safety issues, their responsibilities, WHMIS etc, and thereby instil a greater confidence on the first day on the job.

I'm not sure that this bill takes this into consideration, but I think that liaison is needed between our provincial and federal governments with respect to immigrants and refugees.

I also think that it is imperative that our church organizations be part of the solution in helping our fellow man down on his luck and an active campaign should be waged to find good-living, caring people in these organizations. To do otherwise is to disregard the teachings of all religious denominations.

I also think there is a need for some consideration of transportation. It is sometimes quite difficult for many of our participants, since few would have a car and we are located in an industrial area. If something could be designed to help our participants get to work, that might be another consideration.

Thank you so much for hearing our presentation.

The Chair: Thank you both very much. We have two minutes for each caucus for questions, beginning with the Liberals.

Mrs Pupatello: Thank you for coming. Would you note that there are people who are currently on social assistance that likely would not be able to fit into your program, whether it's — it's sort of difficult to describe — people without the education, the knowhow, the intellect, that kind of thing, that simply will not be able to participate in your Ontario Works program?

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Mrs Cummings: Obviously, since we started on this, each participant comes to us with an entirely different problem, life skill, education, but I think we have such a wide need that we could quite easily fit many different kinds of people into our organization.

Mrs Pupatello: Are you liable if something happens to them when they're working for you? Who pays workers' comp fees? Who covers their benefits, that sort of thing?

Mrs Cummings: Sandra, under your works program, it would be covered by Ontario Works, so there is a blanket. They would be covered under workers' compensation through the government account.

Mrs Pupatello: Does your agency have any liability insurance?

Mrs Cummings: Public liability, yes, and workers' compensation, because we do employ 20 people.

Mrs Pupatello: And you've not extended that to the people who are now under your umbrella through Ontario Works?

Mrs Cummings: Your Ontario Works program actually provides for the participants of this program to be covered, similar to schools, I think, when we have participants apprentice at school. It's the same thing. The government has a blanket account, I believe.

The Chair: Mr Kormos, for the NDP, I believe is giving you his two minutes.

Mrs Pupatello: Thank you kindly. Are you certain that your Ontario Works participants are completely covered should something happen to them on the job? You know, you're telling us some new information today.

Mrs Cummings: The contract that we have signed with our local social community agency states that the Ontario Works program totally covers. Were there to be an accident, we would have to facilitate in filling out a workers' compensation form. Otherwise, it would be the government's account that it would fall under.

Mrs Pupatello: Can you tell me, in the work that you do, because clearly you have an organized agency with 20 employees — there are a number of community groups that would like to participate in workfare that aren't at that elevated, sophisticated level of an agency. An example was given by one group earlier, that indeed the community of Simcoe would like to take welfare recipients and have them dress up in old costumes and sing Christmas carols at Christmas time, dressed up like Charles Dickens's characters. Would you be supportive of that kind of work for welfare recipients?

Mrs Cummings: I can only speak to our organization.

Mrs Pupatello: As an opinion.

Mrs Cummings: As a citizen, I don't think at this stage I need to comment.

Mr Klees: Thank you very much for your presentation, particularly because it offered an opportunity for us to observe a member of the provincial Legislature who clearly has not taken the time to familiarize herself with the details of the Ontario Works program, which deals with issues of liability, issues of workers' compensation. I think it's important that at least members of the Legisla-

ture understand what Ontario Works is and how the program works.

I want to commend you, because I did have the opportunity —

The Chair: Sorry, Mr Klees. A point of order.

Mrs Pupatello: On a point of order, Madam Chair: As anyone who has been familiar with this process so far knows, no regulation has been tabled, a bill has not been passed. We know, as your supporters have said, this is but a shell of a bill.

The Chair: Mrs Pupatello, that is not a point of order. Can we please continue with the deputants.

Mr Klees: There is a great deal of information, as our presenters know. For anyone in Ontario who is interested in availing themselves of information relating to Ontario Works, it's available through the municipalities. There are very concise details about how applications are made, about how applicants, participants, can participate in the program. It's unfortunate that a positive program such as the one you've described is being ignored by members of the Legislature such as Mrs Pupatello, who has not the first concept of what this program is and yet purports to debate the issue.

I had the opportunity of visiting your facilities. As you know, I had the opportunity to speak to some of the participants, who have benefited greatly from the opportunity you've given them. On behalf of the government, we want to thank you for taking the step, for becoming a community partner in this very important program that's designed to help people overcome the barriers, as you said, and make that transition back into the workforce with your help. Thank you very much. We look forward to Ontario Works becoming a reality across the province and helping many, many thousands of people in this province. We also look forward to other members of the Legislature familiarizing themselves with Ontario Works, how it can help in their community and the people in their community who are on social assistance.

The Chair: Thank you very much for appearing before us tonight. We appreciate your point of view.

Mrs Pupatello: A point of order, Chair.

The Chair: Mrs Pupatello, I'd like to deal with this. With all due respect to what has been said here today, I've allowed you to go on, Mr Klees, because I felt it was important that we deal with the deputants, but I would prefer some language that was a little less insulting in this committee if we are to do our work properly.

Mrs Pupatello: On a point of order, Madam Chair: On behalf of myself as a member and certainly individuals who have been listening to the public hearings, I'd like our patience to be noted for the record, that we would put up with that kind of a diatribe by a member from the government.

The Chair: That's not a point of order.

Mr Young: Stop the bickering. Come on.

The Chair: Mr Young, it does not help the case. We're trying to get through hearings and not try people's patience.

Mr Carroll: Madam Chair, I would just like to inform people again that all members of the committee were given a very large briefing binder. There was a briefing session held, which Mrs Papatello decided not to attend. The answers that Mrs Papatello says she doesn't have are all in the book.

The Chair: Mr Carroll, is this a point of order?

Mrs Papatello: No, wait a second, Chair. On the record, a fax arrived at my office here at Queen's Park on Friday evening telling me that on Monday morning you were having a briefing. Members who come from out of town, as I do, would have no way of getting here for a Monday morning meeting when faxed information about a briefing Friday night. That is exactly how this committee operates. This government has operated this way. Don't talk to me about some kind of an information meeting —

The Chair: Enough, Mrs Papatello. I think we've allowed just about enough latitude in this committee.

Mrs Papatello: Go put up some pamphlets in a school yard, why don't you?

The Chair: Mrs Papatello, please. Mr Young, Mr Klees, Mr Carroll, let's remember that these are hearings to hear what people have to say, not what we think about each other. That goes for everyone here.

SOCIAL ASSISTANCE ACTION COMMITTEE, METROPOLITAN TORONTO

The Chair: I call upon the Social Assistance Action Committee, Melodie Mayson, Italica Battiston and Yvonne Skof. Thank you very much for coming. I apologize for the delay in having you here. May I, just on a slightly personal note, welcome particularly Ms Skof, who does phenomenal work in my own riding of Downsview.

Ms Melodie Mayson: It's a pleasure to be here. I'd like to introduce the Social Assistance Action Committee. We're made up of representatives from the Toronto legal clinics and we specialize in the area of social assistance problems and income maintenance issues in general. On my right is Yvonne Skof from the Downsview Community Legal Services. On my left is Italica Battiston from the Rexdale community legal clinic.

We'd like to go through our brief with you, which I believe has been circulated. I'm going to lead off with just a few preliminary remarks that are not included in the brief, and then we'll move through some of the issues, trying to be succinct. It's getting late. We know the committee has been through quite a bit today, but we ask you to be patient because obviously there are a lot of important interests of many, many vulnerable people at stake. I think we owe it to them and we owe it to the province of Ontario to try to do the best job possible in creating a new system.

We first want to express our deep concern about the erosion of rights which we envision in this new act. We hope we're going to be proved wrong. But we are, at this time, very concerned because we don't have the regula-

tions, and we suspect that the rights of social assistance recipients will be substantially decreased as that information becomes available. We are particularly concerned that recipients will lose appeal rights, rights to privacy and will lose individual responsibility due to the lack of third-party accountability, as well as rights to financial security.

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The Ontario Works Act signals a fundamental change in the social contract between the provincial government and Ontario residents. Although the government speaks of mutual obligations and responsibilities, there are no legislative provisions which compel the government to provide support services to recipients in order to assure their participation in Ontario Works. Moreover, while the proposed program is supposedly aimed at reintegrating the unemployed into the labour market, there is no government commitment to full employment.

Workfare is not a new idea. The work camps of the Depression years in Canada demonstrated the limitations of such a policy, as have more contemporary applications in the US. The purpose of this submission, however, is not to go into all that data. It is available and it certainly should be the subject of the deliberations of this committee to look at what has happened elsewhere in other jurisdictions.

Unlike the current social assistance law which imposes rigorous employment requirements on single, unemployed individuals to engage in any work they are physically able to perform, and those provisions do exist right now, Ontario Works distinguishes itself in that it's historically singling out and targeting sole-support parents for one of the first times in this province's history. I think that whole issue needs to be examined very carefully by the committee, the reasons for it, not just jumping to the conclusion that it is in fact a wonderful or a viable idea.

The act presumes that single mothers must be compelled by legislative requirement to engage in activities that might improve the circumstances of their families. However, a study commissioned by the Ontario government entitled *A Profile of Social Assistance Recipients in Ontario* and conducted by the Institute for Social Research at York University refutes such an assumption.

This study, based on the caseload of 1995, revealed that 26.3% of sole-support parents were employed, 11.7% on a full-time basis, 14.6% on a part-time basis. In addition, 7.7% of single parents were pursuing training or attending school full-time and 42% indicated that they were looking for employment; 15% of single parents reported that they did regular volunteer work in their communities.

A conservative estimate, then, would suggest that at least 65% of single parents are already engaged in employment activities. Why the necessity of a legislative imperative when there is no corresponding commitment from government to resources to facilitate that kind of demand?

Single parents require access to reliable, affordable, quality child care if they are to participate in training or employment initiatives. This is nothing new. Many studies

have shown this and have discussed this issue. Metro Toronto's waiting list for subsidized child care already stands at 18,000, and this does not include the needs of single parents who are about to face Ontario Works requirements.

Most mother-led families resort to social assistance because of marriage breakdown or job loss, and in many cases women are escaping family violence. Ontario Works must take account of this reality and the act should be amended to include the following:

(1) The act should exempt single parents from mandatory employment requirements, including one full-time caregiver in two-parent families. If the government insists on pursuing its legislative course, the act should specify that single parents and one full-time caregiver in two-parent families can be exempt from employment requirements where the youngest child has special needs or is not attending school full-time. This may be the explanation we're hearing from the minister. There is nothing in the act to ensure that kind of provision or that safeguard for children as well as for their parents.

(2) The act should permit the waiver of mandatory employment requirements where there is no access to safe and affordable child care. Again, I will not repeat all the reasons you have heard today in terms of the needs of children, in terms of their welfare, their wellbeing and in terms of not exposing them to the possibility of abuse or to unsafe, unregulated child care settings.

(3) The act should permit the waiver of mandatory employment requirements where there are special circumstances such as family violence. Again I would hope, based on the evidence you've heard and the submissions to date, this one is also quite logical.

In addition, we would emphasize that the residents of Ontario should be entitled to a basic minimum level of financial security. The proposed changes discussed mean that people fortunate enough to get social assistance are likely to remain poor and perhaps in debt for many years if the program becomes progressively more of a loan program.

Social assistance should not become a loan to be repaid. Again, there have been many examples cited to date, from repayment of interim assistance to liens on properties to the requirement that third parties have to agree to reimburse or repay assistance. We are not taking any dispute with the necessity or the requirement that recipients repay income that has been received in the same period in which they have been on assistance. Such a provision already exists in legislation.

I am going to at this time pass over to Italcia, who will speak a little bit about appeal rights.

Ms Italcia Battiston: This act offends the basic principle of fairness and it severely curtails the appeal rights of recipients. Under the internal review, no decision may be appealed until it has undergone an internal review. This is an administrative process and not subject to the Statutory Powers Procedure Act. The problem with this is that the bill requires that notice be given that a decision may be appealed but no reasons need to be given.

We submit that people are entitled to know why decisions are made that affect them so profoundly. How can anyone even start to mount an appeal if he or she does not know the reason for the decision? A recipient of social assistance does not and should not lose basic human rights. The need to give notice of a decision and at least basic reasons for the decision is grounded in basic human decency and fairness. We have no way in the legislation at present to know exactly what that's going to mean because, again, everything is in the regulations as prescribed.

All decisions regarding basic assistance should be appealable. Bill 142, interestingly, has only two lines to outline what can be appealed but eight subsections to detail what cannot be appealed and still leaves it open to allow for additions under the regulations.

Non-appealable matters are not subject to an internal review. There is no recourse if a person is denied emergency assistance, for example, or if the worker decides to appoint a person to act on behalf of a recipient or receive assistance on behalf of a recipient. How can someone's life be taken over so completely without the ability to even request a review of these decisions?

Strict time limits should be put into the internal review process. Assistance should be continued while the person is in this process. One month's delay or suspension of assistance can cause irreparable damage to a family on social assistance, sometimes even leading to homelessness. Most people in receipt of social assistance do not have savings to rely on; actually, most of the time they're not allowed to have any. But in any event, if that assistance is suspended or delayed, it can cause a crisis: the start of eviction proceedings — we see every day, even with the cutbacks back in October 1995, people not able to meet their rent and therefore eviction proceedings are started — loss of utilities, no money for food.

The act does not state whether assistance will continue during the review process, but it does state under subsection 25(1) — and this is a little bit ambiguous, and we really can't quite understand it — "A decision of the administrator shall be effective from the date fixed by the administrator, whether it is before, on or after the date of the decision." In effect, therefore, a recipient can have their assistance suspended for an indefinite period of time, during which he or she cannot do anything about it. Only once the internal review is complete can a recipient appeal to the Social Benefits Tribunal and request interim assistance.

This brings us to the Social Benefits Tribunal. We submit that the tribunal should have authority to interpret the law, as it does right now. Bill 142 eliminates the Social Assistance Review Board and establishes the Social Benefits Tribunal, whose function and independence seem to be compromised. First, it appears that the tribunal can only follow the government's set policies and not interpret law; and second, appointment of members to the tribunal are "subject to conditions." What are these conditions?

The tribunal has, moreover, been given the power to refuse to hear any appeal it deems to be frivolous or vexatious. Exactly what that means is unclear. What is frivolous? Does it pertain to the amounts of money involved in an appeal? If the appeal involves \$50 or less, is the appeal too frivolous to be heard? What's vexatious? Who has to be vexed for this section to be invoked? Are reasons going to be given when an appeal is refused on these grounds, and is the decision open to an appeal? Given the fact that the act already restricts what can be appealed, this section serves only to further restrict appeal rights.

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One brief comment on the interim assistance: Interim assistance should not be recovered where there was a delay in making the decision or where the tribunal decides there are grounds to waive recovery.

Presently, when one makes an appeal to the board, an appellant may request that interim assistance be granted while the appeal is in progress. It's not always granted, but you do have that right. Since social assistance is the last resort of most people, refusal or suspension of assistance can be devastating, as I mentioned earlier. Interim assistance gives the appellant time, most times, to negotiate with and obtain further information for the administrator. It gives a period of time where things can get settled.

This assistance has never been recoverable. Under Bill 142, interim assistance will be recoverable if the appellant loses his appeal even in part. This will have the effect of recipients being afraid to appeal or ask for interim assistance.

My final comment is going to be with respect to overpayments. As we heard earlier, and there was some discussion about it, recipients and their spouses should have the right to challenge all overpayments in an accessible tribunal willing to consider their constitutional rights. Spouses and former spouses should not retroactively be held responsible for overpayments incurred by their partners.

If someone receives social assistance to which they are not entitled, an overpayment is created. Similarly, an overpayment will occur if the recipient fails to honour an assignment or reimbursement agreement.

The overpayment may be deducted from future assistance cheques. Alternatively, the overpayment will become enforceable as an order of the Ontario Court (General Division) if a notice declaring the overpayment is sent out but not appealed or the Social Benefits Tribunal determines that an overpayment exists. Right now, if there is an overpayment, the person has to be taken to court to get that order. Under the legislation, it's automatic if the appellant does not appeal to the Social Benefits Tribunal.

The Chair: Excuse me, you're running very close to the limit of your time. I just wanted to remind you of that.

Ms Battiston: Thank you. It's my last statement.

These debts will be enforceable as court decisions even though the debtor would not have benefited from the same procedural protections. An overpayment may be collected even if it was never proven that the money was owed.

I will actually leave it there, because the other issue is that overpayments caused by government error should not be recovered. I'll leave it for you to read further on that. In most cases, it also deals with situations where there is domestic violence and where a spouse might be held responsible for a partner's overpayment. I will leave it and ask Ms Skof to finish on the privacy issue.

The Chair: You're just about at the end, so do your best.

Ms Yvonne Skof: Can I have a couple of minutes? I'm speaking to the loss of privacy rights and loss of individual responsibility in the bill. I'll try to be as quick as possible.

We have serious concerns about a number of violations of privacy rights. Finger scanning and eyeball scanning may be required of recipients. This is very private information, and we feel that the potential for abuse is significant as a result of the broad powers the government has to enter into information-sharing agreements. This information can be shared with provincial and federal governments, their ministries, their agencies, other foreign governments and anybody prescribed by regulation. Also, the delivery of social assistance services may be privatized, which means this information will be handled by private companies and individuals and not government workers who have training in confidentiality requirements.

Second, fraud control units will be deemed engaged in law enforcement activities under freedom of information legislation. This in effect means there will be no control over the accuracy of information collected about recipients and their families. It can be obtained from third parties, it cannot be accessed by the individual and the social assistance office would have no obligation to inform the individual of the legal authority for seeking this information or the main purpose for which that information is sought.

We are also concerned that eligibility review officers will have the power to apply for and act under search warrants. The power to obtain search warrants exists in the Criminal Code, and we wonder why it is being expanded. Will the current safeguards be maintained?

Fourth, a person may be refused assistance not only for failing to provide information about themselves but for failing to provide information about third parties. We're concerned. Recipients should not be penalized for failing to provide information about third parties if this information is not within their control or if the release of this information could result in physical harm to themselves or their families. That situation would be basically abusive relationships and that sort of relationship.

This program is supposed to recognize individual responsibility and promote self-reliance, yet in many situations you're taking it away. If the social services administrator is satisfied that any of the following conditions exist, they can send your benefit cheque to be administered by a third party: If you're likely to use your benefits in a manner that is not for your benefit or your family's benefit; if the social services administrator is satisfied that you're incapable of handling your affairs; or if you're under 18 years old. There are no safeguards on how these decisions are made, there is no requirement that

any alleged incapacity be supported by medical evidence and, worst of all, there are no rights of appeal. Similarly, if part of your cheque is paid to a third party, there will be no rights of appeal.

Ms Mayson: We thank you for that extra time. We apologize for keeping the committee later, but we do hope you can take the points seriously. We think these points are exceedingly important. As has been said earlier today, the erosion of rights cannot take place in Ontario for poor people. We have to be acutely aware that this legislation introduces a different standard for people simply by virtue of needing assistance and by virtue of being poor.

The Chair: We thank you very much for coming. You've certainly made a very valuable contribution. I seem to be apologizing very often tonight for not having enough time. I do wish we had more. Thank you very much.

CIVIL RIGHTS AND PRIVACY COMMITTEE

The Chair: May I ask the Civil Rights and Privacy Committee to come forward, Matthew Trowell and Steve Rutchinski. Thank you very much, gentlemen, for being here so late in the evening and being so patient with us.

Mr Matthew Trowell: Good evening. My name is Matthew Trowell, and this is Steve Rutchinski. We are here tonight to talk about what I feel is the most offensive aspect of this legislation, and that is the introduction of biometric identification.

The introduction of biometric identification into this program arose, as you probably know, through an initiative in Metropolitan Toronto by Metro Community Services. There are a number of references in this outline from a report of Metro Community Services, social services division.

I would like to point out a few things that I think the public should be aware of that I believe they aren't. One thing is that it appears that mandatory biometric ID will not be limited to welfare recipients. That is why we're here tonight to talk about it in terms of how it relates to Bill 142, because we see Bill 142 as the thin edge of the wedge. We want to stop it right here, right now, and we don't want it going any further. So our objective is, first of all, to get rid of it here, if nothing else, and then after that to make sure it doesn't resurface anywhere else. As long as we have to work at that, that's what we're prepared to do.

Metro council, in their report, indicated they would like that "the province be urged to further pursue the use of biometric technology in other government sectors, such as health and transportation." They would also like to "request the federal government to investigate the use of biometric technology for identification purposes," and that's just simply identification. We don't know what kind or for what.

Even our own Premier has said, and I'm sure most of you have heard, that maybe this is the best foolproof method to look at our health cards and to look at how you access all government programs, and "If there are those

concerned that some are being singled out...then that's the best way to remove the stigma, we'll all use the thumb imaging or the same foolproof technology."

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One of the bureaucrats from the Metro Corporate Access and Privacy Office indicated that "We want to set a model...for all jurisdictions in Canada." What I'm not sure about is whether this is just a very ambitious person or whether this person is deluded, because I don't see how a non-elected official in a municipal council has any jurisdiction over anything outside of their office in Metro Toronto.

Although it is asserted otherwise in the human services committee report, that biometric ID will be limited to finger scanning, the evidence seems to contradict that, because in the same report the department continues to advocate to the Ministry of Community and Social Services in Ontario for legislation which will devolve sufficient authority to local communities and delivery agencies to enable the use of innovative technologies to solve long-standing problems.

In order to achieve that, a sufficiently vague law had to be drafted. In Bill 142, we have that evidence, because Bill 142 requires that people "provide evidence permitting identification of the person by means of photographic images or encrypted biometric information." That's really all it says: "encrypted biometric information." Most people I speak with don't know what that is.

The same bureaucrat who wanted to set this as an example for our whole nation, where you have a law that says nothing, this is how she interprets the law: "The [previous] act provides authority to collect" — that's the act before this new Bill 142 — "personal information for the purpose of identifying individuals.... The [previous] act is silent as to what constitutes acceptable identification, and institutions therefore exercise discretion in establishing standards." Well, I personally don't believe that is true. Institutions don't exercise discretion in determining what's an acceptable standard. Without some form of permission from the general population, you can't simply at will determine what's acceptable identification and then change it the next day as it suits you.

Because biometric information means a lot of things to different people, it can include anything from retina scanning to DNA profiling, X-rays, tattoos, radio frequency transmitters or what have you. If all that's required is biometric information about people, then that's simply unacceptable because it's so open to interpretation.

The previous speaker indicated that the system would be managed by outside agencies, including, for instance, Citibank. Citibank will be in control of the system, and they will choose whomever they wish to have as their partner as a biometric identification supplier. In all likelihood they will probably choose someone like Lockheed Martin. They are America's premier military contractor and, according to their own PR, developers of the most advanced scanning technology in the world. Since they're free to choose their partners, they will likely choose someone from down there.

There are other statements here that I want to address if I have the time, and I hope I do. This report indicated that the banks — and this was part of their rationale for bringing this material forward — were “testing and evaluating finger scanning systems as an initial step towards cardholder verification and authentication, thereby replacing the use of a personal identification number.” Then they went on to slam the banks about a number of other things.

However, I asked the banks, and I got a response. But prior to the suggestion that banks were checking out this technology for themselves, the Canadian Bankers' Association had indicated in February, in response to the criticism that the banks made it increasingly difficult for people of low incomes to access banking services — they stated in Metro council that “Simply obtaining a bank account can be inordinately difficult: up to three pieces of identification can be required, and only certain types of identification accepted; an account may not be opened for those with minimal assets;” — that only two, not three, pieces of ID are required, photo identification is desirable but not mandatory and “banks will accept sponsorships or personal references from branch staff or responsible customers.” In other words, a person can serve as a form of identification for a person with no identification. So if the banks can live without it, I don't understand why this government can't live without it.

Not only did the Toronto-Dominion Bank indicate to me that they have no intention of introducing finger scanning technology, but the Scotiabank indicated the same thing and so did CIBC; and, over the telephone at least, the Royal Bank indicated the same thing, indicated that they withdrew from participation in the program because they were so opposed to the introduction of finger scanning. Most banks understand that customers don't want this, and therefore they aren't even interested in implementing it. The only place where there's a captive audience to implement it is right here in government, and especially on the backs of the people who are most in need of social services. They will find it most difficult to refuse on the basis of their own principles, I'm sure.

If you'll pardon me, I think the essential problem here is that people who want to introduce this don't understand that people's bodies are private property. They don't belong to you; they belong to them. Their right to refuse is paramount. Your right to request information about people is limited. As it stands right now, external forms of ID serve as a shield between people and their government, a very necessary shield. They keep people apart from people, and they keep governments away from people's bodies and from intruding on their privacy.

In a free society, no one has access to your body without your permission. To demand involuntary access to your body under threat of the termination of or as a prerequisite for eligibility for social benefits, services, privileges, citizenship and birth rights or participation in commerce, even the innocent enjoyment of social or political life in general, is criminal coercion. You can't deprive

people of something because of their refusal to give their body to you.

Essentially, because biometric ID requires contact with the human body, a person cannot even express, if they are compelled by the state to use this form of identification, any form of resistance. You can't refuse or consent if your ID is your body and you're forced to use it.

Anyway, I also believe that mandatory biometric ID will likely lead to things like, for instance, discrimination through accidental physical injury. A person who loses a body part or doesn't have a body part in the first place may find it very difficult to provide you with that information, especially if they have to provide you with that information before they're going to be entitled to social services. It just doesn't make sense.

I believe that, for instance, extortion may become a very real problem when people's ID is their body. I spoke with Mr Al Leach about this problem, and the first thing he said was: “Yes, well, you know, right now it's pretty bad. You have your ID, and somebody can come up with a gun to your head and say, ‘Hand over your ID.’” That's pretty bad, but can you imagine if your ID is your body? What have you got to lose? Well, your fingers, for instance, or your eyes or whatever manner of identification it turns out to be. For instance, I'm not sure whether or not you're familiar with the Shining Path, but they had a tendency to lop off the thumbs of their political opponents. That may prove exciting to some of you, I'm sure. We all know too that technology is pretty changeable — I'll try and finish it up here.

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Technological change in the past was measured in ages — centuries, decades, years — but right now we're measuring it more or less like the weather, on a day-to-day basis. The pace of evolution is such in technology that the time between concept and production is sufficient to render a product obsolete, information technology especially so. The real purpose of the modern marketplace is not to distribute the latest advances in technology, but really to dispose of the spoiled produce of industry. So you're being sold, for approximately \$16 million, a system that is already obsolete.

As an indication, just a few examples of things that have happened since the introduction of this bill: For example — and I've included the enclosure from Computer World magazine — a chip smaller than a grain of rice, called a medical telesensor, a tiny chip applied to the skin to measure body temperature and other vital signs and transmit the data via radio signals. The first application, of course, is military.

The Chair: Mr Trowell, this is a fascinating presentation, truly, but I must ask you to wrap up.

Mr Trowell: I doubt it very much, but okay, one more thing. If this government is serious about securing, protecting and defending our civil liberties, then it can start by eliminating the provisions in Bill 142 permitting the use of biometric information as an involuntary means of personal identification. If you're serious about justice, then you can investigate that fraud and you can utilize the

existing system of justice in order to prosecute the offenders. That's what the system is there for.

It's individuals committing crimes, not groups of people. I think this government has really slandered a class of people by suggesting that there is fraud within welfare. No one else is permitted to comment on groups or classes of people like that without proving their accusations. That's what you have to do first. I don't really have much more to say.

The Chair: Thank you very much. You had the committee spellbound with your presentation. I regret we don't have time for questions.

ROB DAVIS

The Chair: Robert Davis is next. Councillor Davis, welcome. Good to see you again. You have 15 minutes for your presentation. If there's time, the committee will be delighted to ask you questions.

Mr Rob Davis: Thank you, Madam Chair and members of the committee. I won't consume all my time.

Just by way of introduction, my name is Rob Davis. I'm a city councillor in the city of York here in Metropolitan Toronto. York has the unusual distinction of probably having the lowest average income per capita in Metropolitan Toronto, a significantly high rate of welfare, and it will be significantly affected by some of the things that are advanced in this legislation.

However, today I'm going to speak to you a little bit about the issues around costs associated with the training component and the implementation of workfare, as well as the issue around where workfare clients should or should not, as it were, be assigned.

Firstly, I'm deeply concerned about the potential costs to municipalities under this legislation. My first inclination, when speaking to residents I represent in the city of York and talking about some of the issues and things that are happening with the amalgamation of the seven municipalities in Metropolitan Toronto and some of the down-loading, is that at the very worst case, the costs should be prorated to the existing financial arrangement in terms of the payment of benefits to welfare recipients, that 80-20 split.

Second, there's a concern around the issue of workfare recipients being sent off to work in the private sector or the government sector as opposed to the social service sector, the third sector. The concern among many of my constituents is that having workfare recipients participate in work in the private sector would create a downward pressure on low-income wage earners or low-income wages, and that's something of deep concern to my constituents.

Third and finally, I'm asking members of the committee to consider the types of models that are being put forward by various non-government agencies. The Learning Enrichment Foundation in the city of York is an example of an organization that has been providing training and a hand up, as it were, to welfare recipients and people on social assistance for many years.

I'm a strong advocate of the work they do in our community and I'm a strong advocate for the model they put forward, with various enterprises being offered as quasi-profit centres, so that part of what they would do is have recipients go through training, learning how to run a business, getting the experience necessary, the job skills and the confidence to go out into the private sector, and at the same time providing revenue for the organization so it can sustain itself throughout the year.

Just briefly I wanted to talk about and identify particularly those two issues, the downward pressure on low-income wage earners and the costs of training.

The Chair: Thank you very much, Councillor Davis. We have three minutes per caucus. We begin with the NDP.

Mr Kormos: Thank you kindly. You clearly support the concept of workfare, and I doubt if I'm going to change your mind about it. I can assure you you're not going to change my mind about it.

I made reference to a fascinating book by Struthers, a history of the welfare state, 1914-41. I talked earlier about — it doesn't concern you — the Crowland relief workers' strike, back in the 1930s when Mitch Hepburn sent in OPP officers with guns and made some of the folks, who are of course still alive in Crowland, dig sewers at gun-point because they were collecting relief.

One of the interesting things I read in the Struthers book was reference to the camps that were being used and the utilization of workfare. You see, it's not a new idea. It says:

"By 1932, officials fretted that a dole mentality was creeping into the minds of the single unemployed and that many had acquired the mental attitude that such assistance from the state was their inherent right. Consequently, the camps had a moral purpose to remedy the state of mind, diseased by the demoralizing effect of compulsory idleness, by subjecting single men to the influence of steady work, wholesome food and congenial surroundings."

"One observer noted, though" — he's contrasting it with the Roosevelt programs in the United States, which didn't attract anywhere near the resistance, because the Roosevelt programs in the United States were real jobs, doing real work with real pay, creating real results. This isn't Canada's first experience with workfare. The work camps of the 1930s were simply a response to the perceived idleness and slothfulness that grows from being unemployed.

I know you have a partisan background and I appreciate you've come here with what seems a fairly open mind about the whole issue, but I've got concerns about whether workfare has anything to do with addressing the issues of unemployment and the ability of so many of our poorest and unemployed people to have access to the workplace. I just wanted to respond to your comments with that. I have real problems with it.

What I see here is the same design as was utilized in the 1930s, with the horrible work camps here in Canada, in contrast to the very successful public works programs of the Roosevelt administration.

Mr Davis: I don't know anyone, whether in my peer group or among my constituency, who would advocate forcing individuals at gunpoint to dig ditches and live in work camps. That's not what I'm talking about. I think a lot of people are under the illusion that those of us who may support some form of workfare would like to see people working 60- and 70-hour weeks simply shovelling snow or raking leaves. That's not enough. I don't think it's enough to suggest that for people who are on workfare, this is the solution in and of itself. I don't think it is.

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What I do believe is that putting in five hours of work at a non-government organization, an NGO, or a social service agency is not going to be terribly taxing on most welfare recipients — most; there are obvious exceptions to the case. I think a lot of people automatically, because of the way this issue has been politicized, might take the opinion that we're going to have work camps in northern Ontario and we're going to have gun-wielding members of the OPP forcing people to clear snow —

Mr Kormos: I raised this issue to point out that it isn't a novel idea; it's an old idea.

Mr Davis: Fair enough, but your suggestion was that this is very similar. I think it's not very similar. I think most people who are on social assistance would prefer not to be; I believe that. I believe we have an obligation to help people where we can. It's simply not enough to say that workfare is going to solve all our problems. We need to have real jobs for people to go to. We also need real training.

Mr Kormos: It won't solve any of them.

Mr Klees: Thank you, Councillor Davis, for your presentation. I just want to take this opportunity to confirm for you, with regard to your first expression of concern regarding the downward pressure on the private sector wages, the design of the Ontario Works program as it is precludes placements in the private sector. It is limited to the non-profit sector for that very reason, because we don't want these placements to displace existing jobs. That would be self-defeating. We'd simply be turning the tables. I want to allay that concern. We are encouraging the private sector to get involved in sponsoring community projects where people can have involvement in volunteer efforts.

I also want to affirm with you — you made reference to the Learning Enrichment Foundation. I'm familiar; I visited the site myself. I agree with you that they're doing an outstanding job in helping people transition back into the workforce. In terms of establishing the Ontario Works business plan here in Metropolitan Toronto, I encouraged Metro to look at LEF and other agencies like it who are doing an excellent job today to incorporate their work into the business plan.

You made reference to the importance of training. I agree with you. One of the components of Ontario Works is employment supports, which involves basic training to ensure that people can be brought to the point where they are employment-ready. All those components are certainly incorporated into the Ontario Works overall business plan.

You probably know as well that each delivery area is encouraged to develop its own business plans, so that we can incorporate the uniquenesses of the regions into the Ontario Works strategy. That is really going to contribute to the success of the program across the province.

We're looking forward to Ontario Works being implemented in Metro and we look forward to your support and your dialogue on this. If you have any additional advice for us, we're certainly open to that and we look forward to working with you on that.

Mrs Pupatello: Thank you, Mr Davis, for your presentation today. I'm a little surprised, frankly. I think I expected something a little bit different. Are you speaking on behalf of the city of York?

Mr Davis: I'm speaking on my behalf and on behalf of my constituents.

Mrs Pupatello: So as a councillor. Is your community supportive of workfare, or opposed?

Mr Davis: I believe the majority of my constituents are supportive of workfare.

Mrs Pupatello: What is the official position of the city of York?

Mr Davis: The official position of the city of York was to support the LEF workfare proposal and actually encourage the government to implement new funding for LEF.

Mrs Pupatello: Given your initial remarks about downloading, you probably would approve of AMO's presentation earlier that completely rejects the downloading of a social program on local property taxpayers such as your own constituents.

Mr Davis: I've spoken in this room against downloading, when discussing the amalgamation. I've mentioned in my comments that the costs should be at the very least prorated to the same financial arrangement that exists for the payment of benefits to welfare recipients.

Mrs Pupatello: Some of the American models that you may be familiar with, when they brought forward workfare proposals — a few of them acknowledged the huge investment that needed to be made in infrastructure around these families, such as child care. What is the child care situation like in your city of York? The minister actually says they've spent money in child care and there are more spaces now. Have you noticed any benefit in York regarding child care spaces?

Mr Davis: Funny you should ask. I'm in the middle of helping a group negotiate a space in my municipality; I think there are going to be about 91 spaces.

Mrs Pupatello: Is that a private company?

Mr Davis: No, it's not a private company, but it's an excellent question. We're having a problem with the zoning issues, which is why I'm in the thick of things. As a city councillor, we tend not to have as many of these issues come forward. Generally, it's the regions that deal with the day care issues. It's purely coincidence with respect to this issue and it's really the first time I've seen a non-profit day care approach me asking for assistance in securing a location in my ward.

Mrs Pupatello: As a councillor for the city of York, would you be in favour of providing bus tokens, say, to get

these people to their workfare placements? Would you be advocating that they actually have the financial means to get to a workfare placement? Because you know it's not part of the program.

Mr Klees: It is part of the program.

The Chair: Please.

Mr Young: She hasn't read it.

Mr Davis: With due respect, I just want to say to the member that my support for workfare has nothing to do with necessarily reducing costs. It has to do with putting people back to work, with giving people skills, with giving them dignity, with giving them an opportunity to find real employment.

When critics of this and many people who may disagree with my opinion say to me, "It's going to cost a fortune," I say that as far as I'm concerned it's not about saving money; it's about an investment in people and it is not, with due respect, the be-all and end-all. It is not going to necessarily, in and of itself, resolve the problem we have of high levels of unemployment.

What we need, frankly, are real jobs in the private sector; we need real training and real opportunities for people to have access to that training. Quite honestly, if it means they get bus tokens, then they should be given bus tokens. But that's obviously going to be determined by the people who are going to be delivering the service, some of the NGOs, the people who work on the ground with real cases, real clients.

The Chair: Councillor Davis, I want to thank you on behalf of the committee for taking the time to be here.

Mr Davis: Thank you. It's a pleasure seeing you again.

Mr Klees: Madam Chair, while the next presentation is coming forward —

The Chair: Let me just call the next presentation. The Canadian Pensioners Concerned Inc, Ontario division, Mae Harman.

Mr Klees: Madam Chair, in the interests of clarification, it's important to note that the Ontario Works program does provide for transportation costs; in fact it provides for clothing costs. Ms Pupatello clearly does not understand the Ontario Works program or she wouldn't be making the comments she is. I'd like to offer a briefing for Ms Pupatello —

The Chair: Mr Klees, I'm trying to understand under what heading you are phrasing your comments.

Mr Klees: It's a point of clarification, which we use fairly extensively in these committees to clarify these misconceptions.

The Chair: We shall move on.

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CANADIAN PENSIONERS CONCERNED INC, ONTARIO DIVISION

The Chair: Ms Harman, thanks very much for being here. The hour is late, but you have the committee's full attention, I assure you.

Ms Mae Harman: Thank you for hanging in till this late hour. Please bear with me.

My name is Mae Harman, and I'm president of the Ontario division of Canadian Pensioners Concerned Inc. Our organization was founded over 25 years ago. It is a membership-based, voluntary, non-partisan organization of mature Canadians committed to preserving a human-centred vision of life for all citizens of all ages.

Canadian Pensioners Concerned has particular concern for the quality of life for people in our society who, by virtue of age, illness, physical or psychological disabilities or impairments and/or economic need, are especially vulnerable in a society driven by marketplace economically determined values, often to the exclusion of other societal values that sustain and enhance a fair, just and inclusive social order.

In making this presentation, I've been asked by the Older Women's Network and by the Ontario Coalition of Senior Citizens' Organizations to speak on their behalf as well.

Obviously, I am not the first to say that Bill 142 is a horrendous act. In 1920, the year I was born, the United Farmers of Ontario government passed some landmark legislation, the Mothers' Allowances Act. It recognized the responsibility of the state to give financial assistance to sole-support mothers.

We seem to have gone full circle. The present government denies responsibility for supporting people in need. The Ontario Works Act provides only "temporary financial assistance to those most in need, while they satisfy obligations to become and stay employed." Each of us, it seems, is responsible for looking after ourselves, no matter what conditions we find ourselves in. The prevailing attitude is that people on welfare have caused their own calamity and must be punished for failure to be independent.

Bill 142, the Ontario Works Act and the Ontario disability support program, which constitute the act, do away with the philosophies of need and entitlement, which gave focus and direction to the social assistance program which has developed over the years. Together, they contravene the International Declaration of Human Rights and other international agreements which Canada has signed and which spell out the rights of everyone to a decent standard of living, the right of security in the event of circumstances beyond their control, the right to free choice of work, the right to favourable conditions of work, the right to education etc.

Bill 142 targets specifically single parents, the disabled and the unemployed old. When we punish mothers — who are especially reviled as persons who, all on their own, produced children only so they could go on welfare, which is well discounted by research — we are punishing those thousands of poor children, many of whom go to school hungry and cannot concentrate on their studies, and some of whom share one room in a dingy motel with their whole family. We are punishing our society also because we are setting so many roadblocks in the way of children achieving their full potential and becoming fully contributing citizens.

There is not time for me to deal with the intricacies of forcing people to work, the lack of assurance of adequate, secure, stimulating child care and the lack of protection at work from harassment, abuse and accidents.

We are adamantly opposed to workfare. It sets up two classes of workers, one of which is labelled as undeserving and made to work without taking into consideration the other factors in one's life. This may come at a time of great stress because of bereavement, separation or escape from abuse. The work is underpaid and undervalued, of short duration and leading nowhere in terms of a career. Workfare is based on the idea that jobs are easily obtained, which is ludicrous in the light of the high rate of unemployment, especially for those with limited education and training. The majority of people on welfare are either lacking in the requisite skills or have become unemployed when their jobs ceased to exist.

We are troubled by the turning of welfare into a loan, through liens on houses and other provisions, to make recipients pay back assistance. How ironic it would be if, having become employed, you no longer had a home and furniture because they had been sold to pay for your welfare and now you had to apply for welfare again in order to pay the rent. How devastating it would be for some senior citizens because they must part from the only assets they have, the family home.

We deplore the lack of meaningful appeal procedures and the lack of arrangements for appeals that are at arm's length from the government. Existing appeal boards will be replaced with handpicked government tribunals.

Much of the detail surrounding this bill is not contained in the bill itself. It will come in the regulations, which are not subject to public review or legislative approval and which may be changed by the cabinet or minister at will. The government may decree by regulation the classes of persons eligible for social assistance and may dismiss from welfare an entire group of people.

Great emphasis is placed by this government on the need to counteract welfare fraud. The public is led to believe that a high proportion of welfare recipients are not entitled to their payments and get them by devious and illegal means. While there is some serious fraud, as there is in any system, including government, most improper payments are the results of mistakes or errors.

Governments have been unable to prove high incidences of fraud. Nevertheless, Bill 142 gives municipalities and the province sweeping new powers of investigation and enforcement including fraud control units, snitch lines, search warrants, biometric identifiers etc. The cost to the taxpayer of all these measures will be far greater than any money recovered. But even greater will be the cost to welfare recipients through the atmosphere of fear engendered, the invasion of privacy, the intensity of investigation etc. Whatever the extent of welfare fraud, it doesn't even approach that of Bre-X.

With regard to the Ontario Disability Support Program Act, people in the disability community are very worried about who will qualify for support. Will many current FBA recipients be found to be not disabled enough? Will

services like the present housing allowance, which takes into account the special needs of the individual, be continued?

As seniors, we have a particular concern about the work requirements for those older persons who are not eligible for pensions because they have not reached retirement age or have not been residents of Canada for a long enough period. Many of these are people who have lost their jobs because their employers have closed up shop, gone broke or moved to areas where labour is cheaper.

In the current high level of unemployment, it is extremely difficult for those over 50 to obtain jobs. Some of these are people who are illiterate because appropriate schooling was not available in their younger days or are lacking in the skills needed in today's work market or are illiterate in the sense of the language and customs of the Canadian work scene, even though they may have PhDs. In a society where over 16% of youth are unemployed, why would we spend resources on sending old people back to work? To cut \$400 or any further amount from payments to seniors who are dependent on welfare would be callous and cruel.

In summary, as seniors we look in sadness at this bill based on values which demonstrate such lack of responsibility for the needs, rights and dignity of all vulnerable people; the wish to punish those who must seek assistance; the intrusiveness of inquiries into people's circumstances; the lack of an adequate system of appeals.

In the long run, the government seems to be heading towards the privatization of welfare, the contracting out to private for-profit firms, the administration and delivery of social assistance programs as cheaply as possible but with good profits for the firms. It can all be done using technical devices, and nobody will need to ever have human contact with people suffering from poverty.

Our three organizations strongly urge the government to withdraw Bill 142.

The Chair: Thank you very much, Ms Harman. You've used up your time very effectively. We thank you very much for coming here tonight.

Mr Kormos: Unanimous consent for two minutes per caucus?

The Chair: Is there unanimous consent for questioning, two minutes each per caucus?

Mr Carroll: No.

The Chair: We do not have unanimous consent.

Mr Kormos: Mr Carroll doesn't want it. My apologies to you people.

The Chair: This concludes the public hearings.

There are a number of housekeeping items, if I might ask the committee to stay.

Interjection.

The Chair: Mr Kormos, if we could proceed —

Mr Kormos: I'm sorry. I was just distracted by Mr Carroll's demonstration of public relations.

The Chair: We have a bit of business to deal with. First, I believe we have a motion, Mr Kormos.

Mr Kormos: Yes. I move that membership on the subcommittee on committee business be amended by substituting Ms Boyd for Mr Wildman.

The Chair: All in favour? Opposed, if any? The motion is carried.

I've asked the researcher to prepare a compendium of the questions that have been put to the ministry so far. There's been some delay in getting Hansard because of the lateness that we sit, but I've been assured that we will have a complete list tomorrow; it will be distributed to your offices. In the interim, Mr Carroll has tabled some answers to questions that have been put to the ministry by Mrs Papatello.

Mrs Papatello: A question on the responses from the ministry: One of the questions involved comments made by the parliamentary assistant regarding liens on principal residences. My question was actually the OW recipients, not the ODSP — if I could have that resubmitted as a question. I don't know if you need to check back on the Hansard for those comments. How quickly are Hansards available?

The Chair: We will have a full list of questions tomorrow.

Mrs Papatello: But I think this may have been taken down inaccurately the first time, so I don't know if I should check Hansard.

The Chair: It may be, but I think the questions were taken down separately. Our researcher has been taking down the questions. These are ones that Mr Carroll wrote down and got answers to. Is that correct, Mr Carroll?

Mr Carroll: Yes, I did.

Mrs Papatello: When is the Hansard available for this committee?

The Chair: We're not sure when the Hansard will be available. The House takes precedence, and as you know the House sits till 9:30 at the moment, but we will have a full list of questions and you'll be able to —

Mrs Papatello: I have a separate question regarding Hansard. Is it about a week? What do you expect?

The Chair: I know, with respect to another committee, that it took almost two weeks to get material.

Mr Kormos: Chair, I have another motion. That is, in view of the fact that, as you indicated, some 140 individu-

als and groups have requested to appear at these Toronto hearings, and in view of the fact that it is the time allocation motion that restricts this hearing, which was supported only by the Conservatives and not by the opposition parties, and that requires this committee to sit only for two days, and in view of the fact that it is within the power of the House leaders on agreement to extend hearing time here in the city of Toronto to accommodate even some of those 100 individuals and groups who were denied access to this committee, I move that this committee recommend and request our respective House leaders to consent to an extension of time here in the city of Toronto.

Mrs Papatello: I second that motion.

The Chair: Discussion? All right, then we'll put it to a vote.

Mr Kormos: Recorded vote, please.

Ayes

Kormos, Papatello.

Nays

Carroll, Hudak, Klees, Young.

The Chair: The motion is defeated.

There is one more item. The subcommittee needs to meet in order to determine travel arrangements for the venues outside of Toronto. We're tentatively scheduled for October 20. We won't know until the government calendar is released, but I propose that we meet at our usual committee time on Tuesday to deal with that and as well to deal with the issue of —

Mrs Papatello: What time is that, Madam Chair?

The Chair: It would be 3:30, immediately after question period on Tuesday — and to deal also with the issue of the 125 motion that was brought on children's services.

With that, we have adjournment, sine die, pending the government calendar.

The committee adjourned at 2155.

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**Official Report
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Monday 20 October 1997

**Journal
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Lundi 20 octobre 1997

**Standing committee on
social development**

Social Assistance
Reform Act, 1997

**Comité permanent des
affaires sociales**

Loi de 1997 sur la réforme
de l'aide sociale

Chair: Annamarie Castrilli
Clerk: Tonia Grannum

Présidente : Annamarie Castrilli
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Monday 20 October 1997

Lundi 20 octobre 1997

The committee met at 0859 in the Best Western Hotel, North Bay.

SOCIAL ASSISTANCE
REFORM ACT, 1997LOI DE 1997 SUR LA RÉFORME
DE L'AIDE SOCIALE

Consideration of Bill 142, An Act to revise the law related to Social Assistance by enacting the Ontario Works Act and the Ontario Disability Support Program Act, by repealing the Family Benefits Act, the Vocational Rehabilitation Services Act and the General Welfare Assistance Act and by amending several other Statutes / Projet de loi 142, Loi révisant la loi relative à l'aide sociale en édictant la Loi sur le programme Ontario au travail et la Loi sur le Programme ontarien de soutien aux personnes handicapées, en abrogeant la Loi sur les prestations familiales, la Loi sur les services de réadaptation professionnelle et la Loi sur l'aide sociale générale et en modifiant plusieurs autres lois.

LOW INCOME PEOPLE INVOLVEMENT
OF NIPISSING

The Chair (Ms Annamarie Castrilli): Ladies and gentlemen, welcome to the standing committee on social development. We start this morning with Low Income People Involvement of Nipissing, with Lana Mitchell, director. We're delighted to have you here with us this morning. You have 20 minutes to make your presentation. You may use your time as you wish. If there is any time left over, the committee will ask you some questions.

Mrs Lana Mitchell: Initially I would like to thank the committee for allowing us to make this presentation. I'm going to be speaking quickly because I found it really hard to bring my points down to 20 minutes, let alone 10, and allow some time for questions.

Just quickly, LIPI is a non-profit consumer organization that started in 1985. We incorporated provincially in 1986 and we strive to enhance opportunities for those of us in society who are relegated to the ranks of what are labelled as the not politically cute, the undeserving; in other words, the financially poor.

Our driving force is that we believe all individuals have the right to maintain dignity, the right to self-development,

and that the opportunity to achieve should not be denied or discouraged in anyone. We're a 100% self-financed organization. The next page or so just gives you an idea of the stats, what we do and what's involved there.

As an organization, we see ourselves as more than simply experts on human issues contained in Bill 142, because we are an organization made up of members who are people on social assistance or who have been on social assistance. But we also see ourselves as the future casualties of the shortsightedness, let alone cruelty, of this piece of proposed legislation. We, our families, are the ones who will be forced to endure the constant politicizing of the poor to score votes from people of all political stripes who have been lucky enough so far not to have to experience the lowest level of the public trough, which is social assistance.

As a preamble to our recommendations, we'd like to make it really clear that as much as we are attempting to respond to the contents of the proposed Bill 142 to the best of our abilities, we adamantly oppose the lack of clear rationale, the hiding of details — in other words, those things that are to be prescribed later — as this leaves poverty, once again, in the political realm and forces us to accept a piece of legislation that is silent on the details of how things will change. Potentially they could change for the better, but when you're nervous and worried about your future, you tend to assume they're going to change for the worse.

Our recommendations:

(1) That the province should be commended for taking this initial step for social assistance reform and pulling the four pieces of legislation together and removing it from more than one delivery site, whether it be FBA, GWA or whatever it be. This step has been needed in our province for a long time.

(2) That the overall missing element to every section of Bill 142 is prevention and a plan. Is SARA the beginnings of a provincial strategy to target full employment? It must be because we're dealing with a piece of legislation that believes there is paid employment out there for all of us. If the goal is merely to cattle-drive an entire sector of the population to be available for slave labour that complements the cuts to public service and supports the current provincial agenda of the day, then say that, because it has to be either one of full employment or one of supporting cuts with this cheap labour availability. We couldn't

figure out what another option was; we'd be interested in knowing if there is one.

(3) Rather than focusing on promoting welfare fraud and creating fraud squads, we recommend you question the internal accountability and deliverability of the program you are proposing. The level of tinkering that will go on within the regulations and the complexity that comes from a system drowning in policy directives — this program will be no different, as the right to prescribe in regulations is extensive — is not acceptable to either the recipient or the taxpayer.

We recommend you leave policing to the police, not create another bureaucracy to address the issue, thus creating more duplication rather than reducing it. To give more power to individuals, without proper training, is not fair to them or the victims they create by publicly reacting; in other words, charging people before they have all the facts or do a proper investigation.

If this government were truly interested in eliminating waste within systems, they would design a simple system with publicly understandable rates and benefits that is responsive to the needs of the people it is supposed to serve, rather than having to create a fraud squad to address the overpayments and inadequacies that are an intrinsic part of your proposed system.

We're worried about technology. We've given you some examples of what our experiences, as individuals, have been with technology, the millions of dollars that are spent and we still don't have a doable result in the end. One thing we would like to flag is that bigger is not always better, and the best is not always the most expensive system.

We recommend that the use of technology not be a tool to avoid servicing the public. The introduction of voice mail, for example, has simply placed particularly provincial workers completely out of a client's reach. Computer-generated letters/communications sent to recipients are also useless as they generally are received after the fact. The recipient has been cut off the system and receives notification of such in the mail two to three weeks later, and then they're asked why they didn't respond to the situation and weren't more responsible. It's not a winning situation.

We further recommend that a set of standards be established within the legislation itself, formulas defining the actual cost of shelter-basic needs in our province. Shelter should include the full cost of shelter; heat and hydro are not a luxury. Basic needs are: food, clothing, medical, telephone and transportation. Then the only political part of the equation comes with what percentage the government of the day proposes to cover within social assistance.

The current government of the day has established a piece of legislation that is shortsighted and assumes they will always be in power. The level of regulatory powers is unacceptable. It is also expensive to the taxpayer as it sets up poverty, once again, as a political football to be lobbied in whatever direction is politically cute each term.

As much as we agree with individual responsibility and self-reliance, we fear becoming trapped in a work-for-

welfare or volunteer mode that supports public services that have been cut, when our individual goals are not just community wellbeing, but financial self-reliance from social assistance as well.

We recommend the inclusion of a stabilization period before the clock starts ticking on temporary assistance. Health problems, layoffs and family breakups are only a sample of the events that throw people into systemic poverty. A stabilization period would include the recognition of a time frame required to ensure that basic human needs are being met and that any legal responsibilities to pursue income from other sources are being addressed.

Physiological needs: hunger and thirst, safety and security, shelter — once these pressing basic needs have been addressed, and these are needs we all possess regardless of source of income, then and only then is there a level of self-esteem that can lead to the self-actualization of an individual's goals. It's pretty hard to job-search if you don't have a home or don't have a telephone to respond to those requests.

We also recommend that a definition of "most in need" be included in the legislation or the reference be totally removed. We view this as the stage for another political attack on the poor.

Communications: Following the stabilization of an individual benefit unit, we recommend that a clear, concise, complete information package should be provided to each first applicant, then recipient, of what is expected from them as a client, and further what they can expect in the way of support, service or penalty from the delivery agent.

To effectively serve people needing assistance: How this system can be expected to effectively serve people in need is beyond our comprehension when the overriding principles of the legislation are to recover overpayments. Would not the client and the taxpayer be further ahead if the province's goal was to create a responsive system that addressed prevention of overpayments in the first place?

To contract out to a collection agency at a cost to collect money — a basic workable system that is accountable and wouldn't allow it to go out in the first place is far more appropriate to us. We often wonder if the entire issue of overpayments is not protected from being eradicated, as welfare fraud is such a hot political tool for politicians, and overpayments are understood by the majority of taxpayers to be fraud.

In regard to the statement "accountable to the taxpayers of Ontario," we applaud the government for the inclusion of this statement within the purpose of the legislation. But accountability in our minds is a two-way street. We have no difficulty determining the accountability of the client throughout this piece of legislation, but where is the accountability of the province? They've removed any personal responsibility for anybody involved in any way, shape or form.

Then you look at, for example, subsection 77(1) and it says, "No person shall knowingly obtain or receive assistance to which he or she is not entitled under this act and the regulations," and then you look at subsection 77(2), "No person shall knowingly aid or abet another person to

obtain or receive assistance to which the other person is not entitled under this act and the regulations.”

Both are deemed an offence, and rightly so. Does subsection 77(1) define the client and subsection 77(2) define the delivery agent who ignores or doesn't get to a file? We can be charged if we don't open our mail or respond to a notice that we technically were deemed to have received. It has to be a two-way street.

0910

The other problem is that without the whole story, accountability to the taxpayer by the province is a joke. As an example, at the end of this presentation I've included a copy of what was in our local paper this Saturday that just passed. It's really frustrating when you're one of the people and you have children and your family wears the label that's attached to social assistance when you have comments made by the minister, who is supposed to be responsible for community and social services, saying that in North Bay alone, for example, there has been a 20% reduction in the number of people trapped on welfare due to the introduction of mandatory work-for-welfare rules. That's quite impressive, and isn't our government doing a wonderful job? It must be the way we should go. I would think that if I didn't know any better as well, too.

I'm not knocking our Ontario Works program, by the way, because it's an excellent program — the North Bay one. The fact that the North Bay Ontario Works program has not even existed for a full year yet is not mentioned. The fact that the October 1995 cuts to assistance are responsible for the largest portion of that drop is not mentioned. The fact that as of September 1996 recipients involved in post-secondary education are totally on OSAP loans and no longer receive social assistance is not mentioned either.

The fact is that once more a political spin is placed on the poor. The end result is that we are prelabelled and further denigrated by the very ministry that's supposed to address community and social services. The public believes these statements to be the whole story. Thanks a lot.

We strongly recommend that an evaluation process be established to report the whole story to the taxpayers of this province. What does it cost to offer services pre-Bill 142 and what does it cost to offer them afterwards? The trick will be to report on comparative services.

Employment assistance: We don't think anyone should be denied employment assistance. We recommend that the reference to “stay employed” be defined so as not to exempt those of us who are making the most of what is available out there in today's job market. If you take on a contract position you know is only going to last for six months, does that mean you've already accessed it once, you didn't manage to stay employed, you can't access it again? We have concerns about that. We think you should value any level of paid employment that we can access and fully encourage it.

Child care needs to be addressed, whether it relates to employment or educational support. Currently subsidized child care in our community is unaffordable to people who

are on social assistance. I've given you an example there where there are user fees attached to our subsidized child care spaces. We hear a lot of times, “You get free child care provided, why aren't you out there trying to do something?” For each child we have in child care, it costs us \$21.25 a week. If I have two children, that's over \$200 a month I have to take out of my grocery money so I can go back to school and be the responsible parent I want to be.

You're legislatively trapping people and putting us into a position where I either choose to not feed my children for a few years till I can get the proper education, compete in the job market and be where I want to be, or I continue to wear the label of someone who is on social assistance and doesn't care about the future of my family. It's ridiculous. I don't think any taxpayer would accept that.

We further recommend that any attachment to the paid workforce be valued. A part-time job may not get families fully off the system, but to have a system that doesn't recognize that half off is a crucial first step is defeating the whole so-called purpose of this reform.

We're nervous because we don't see any reference to the STEP calculation. Where is the top-up? Where is the removal of the current three-month barrier to a STEP calculation that doesn't recognize and allow people to keep part-time work? How are employment expenses recognized? Where is the definition of employment, self-employment, home-based cottage industries? The asset limit could be a problem for someone who does contract work with a computer in their own home. Don't make it impossible for us to be self-reliant. That's what we want too.

We recommend that the buffer zone for the working poor to access dental and medical benefits for themselves and their families be expanded. No one is interested in the \$2.50 cheque or the money part of it. They're more nervous about the benefits. I would think it's accountable to the taxpayers as well to only provide, say, my family for a while the cost of drugs and benefits rather than dealing with the whole cost of my family on assistance because I can't afford to take a job because of the medical needs of a member of my family.

We recommend that the section on liens on property be removed. The people you are targeting here are sole-support parents, couples and people aged 60 to 64. For sole-support parents, anyone in a position to have a mortgage generally already has, as a minimum, a legal aid lien on their mortgage. How many liens can you have? You're going to have to stop somewhere or we won't be financially in a position to even be able to renew our mortgages. For those of us who are lucky enough to get into home ownership, we view it as our only ticket out for the future, to guarantee that eventually we can build up some equity so that we can finance post-secondary education for our children. That's the only shot we have because we have to pay to live somewhere regardless.

For couples, it's the same issue, and for people 60 to 64, as long as, because they tend to be equity rich — they're referred to as equity rich and cash poor — the lien

does not exceed the limit that would allow for a mortgage renewal, which is 75% of the lien-free balance of value of the home if no CMHC approval is on file, and that tends to be the majority of homes that are owned by people in our area.

We strongly recommend that the province not regulate social assistance as a loan as it relates to general basic assistance, as it would simply ensure we are trapped in poverty longer, or maybe forever. We would support the concept used by the old age security or employment insurance programs through the income tax process. When an individual files their annual income tax return and they are over an acceptable threshold — for the old age security it's \$53,000 and change, for EI it's \$48,000 and change — then the moneys received as assistance are clawed or paid back.

This approach takes into account only the prior calendar year. Any one of us would not have a problem with it. If I land a job and I'm making some money, I'll gladly pay it back. I hope I reach the position where I could. No one would challenge that or have a problem with it, but within the calendar year. You can't hold me accountable for the rest of my life. I will forever be poor and obviously, or to my understanding, that's not what this reform is supposed to be all about.

We applaud the decision to not provide assistance directly to 16- and 17-year-olds when it becomes necessary, but we caution the government on just who is allowed to take in these young adults. We strongly recommend that you speak with your own probation officers as to how and why many of our youth quit school and who takes them in when we attempt to teach them how to be responsible adults. Within your own ministry, the Ministry of Community and Social Services, you have all the resources to come up with an excellent approach to that. You should make use of them.

There must be a mechanism to ensure it is legitimate for the administrator to appoint a person to act for a recipient. There must also be enshrined within the legislation a method similar to that of a trustee where one must pass the books through the Attorney General, or whatever makes sense within the ministry, to ensure credibility of persons appointed. There must also be a listing maintained of those who abuse vulnerable recipients so they cannot jump from client to client. Even in a town the size of North Bay the horror stories permitted to go on unchecked are unacceptable. It must also be named —

The Chair: Excuse me, Mrs Mitchell. You only have a couple of minutes left, so I wondered if you want to summarize. You need not fear about the text. The full text becomes part of the proceedings, if you just want to highlight what you think is important for us to hear at this point.

Mrs Mitchell: Okay. Appeals frivolous, vexatious: We recommend that the definition of such be included in the legislation as these two words give a lot of legal power to a tribunal within an unlimited scope. We have concerns about a tribunal that is supposed to be based on ensuring justice when it could be a paper hearing, telephone, video-

conferencing, a lot of things we are not accustomed to doing and would be extremely uncomfortable with.

Subsection 45(1): We recommend that this section have the inclusion of applicants past and present removed. How does this government justify, and for what purposes, that an applicant, which means someone who did not receive any benefits or they would be defined as a recipient, be subjected to an investigation by a fraud control unit? This makes no sense to us whatsoever.

We further recommend that a time limit be placed on how far back the fraud unit can go on investigating a past recipient. We do not understand the rationale for this wording. To have one year would be reasonable to us. To allow a fraud unit to go back more than one year implies things we do not find acceptable.

Subsection 46(2): This entire section should be abolished. The intent to address true welfare fraud is applaudable. The method is outlandish and is not going to be effective. If the government wants to truly deal with fraud, it would have a separate designated police officer within existing police departments who works with the ERO or whatever department name you want to give that. There would then be no duplication or training curve involved. To subscribe powers of a search warrant and to act under it to a new class of public servant is ridiculous.

In closing, we would like to recommend that we think it's crucial that although there are some references to a limited amount of protection through the transitional period, we want to know what the plan will be as to when this transitional period goes on. What happens to the people who fall between the cracks, get lost, files get lost, things happen? When the regulations come, we'd like to recommend that a business approach be taken. Test them. Make sure they're viable, make sure they're even deliverable. Not even challenging whether they're adequate, but make sure it's something people can actually take into a system and live with.

The other thing is that I would strongly encourage we use true mutual responsibility. We, as consumers, have proven over and over again over the years what poor people have known all along. The consumer knows what they need to become economically independent and self-sufficient. If they are allowed to self-identify in a non-punitive system their reality and have it respected, we all win. None of us wants to be on social assistance. I want to be able to take my children to Disneyland or wherever just as much as anyone else. Don't make it legislatively impossible for us to meet our goals and become the best we can be within our communities. We all have something to offer.

Thank you for your time and please remember that social assistance recipients are taxpayers too. We pay taxes, per dollar probably per capita more so than a lot of people who are quite well off. Sorry for that rushed version.

The Chair: Thanks, Mrs Mitchell. It's we who have to apologize. We only have one day in North Bay and we're trying to accommodate as many groups and individuals as possible. That's why the time limit. You've obviously

given us a very thoughtful insight into Bill 142. We thank you very much.

0920

LAKEHEAD ASSOCIATION FOR COMMUNITY LIVING

The Chair: The Lakehead Association for Community Living, John Klassen. Welcome, Mr Klassen. You've joined us from Thunder Bay today. Thanks very much for being here.

Mr John Klassen: Good morning, Madam Chair, members of the standing committee on social development. I would rather have done this presentation in Thunder Bay — Bearskin does accommodate us well — but so be it. I appreciate the time to address this committee on this very important bill, Bill 142.

My name is John Klassen. I'm the executive director of the Lakehead Association for Community Living in Thunder Bay. The association envisions a community where all people participate and contribute as part of their community and as full citizens, a society where the innate value of each of its people is honoured and protected. The dignity and self-respect its people enjoy in their respective communities are the result of sharing and shouldering the responsibility of welcoming and supporting all members of the community without discrimination.

LACL, the Lakehead Association for Community Living, is a member of the Ontario Association for Community Living, a federation of more than 100 local associations and thousands of individuals and families who are members of this federation. I should say that thousands of people in this province who are members of the federation will be profoundly affected by Bill 142 as it is enacted. My presentation today will, in part, incorporate what the Ontario Association for Community Living will present to you in written submission, if it hasn't already.

For many years, associations like the Lakehead Association for Community Living have called upon this government to make changes to the social assistance system in Ontario that would take people with disabilities out of the general welfare system and create a specific system for supporting people's disability-related needs. The associations support the continuation of an effective welfare system that supports people through times of crisis and disruption. However, people with disabilities need very different kinds of support which have not been well provided through the traditional welfare system.

A support system for people with disabilities must be designed with a great deal of flexibility in order to respond to an individual's changing needs over a lifetime. Such a system must be available throughout a person's adult life, must provide the flexibility and necessary supports for individuals to support themselves through employment, and must be able to respond quickly with financial supports when an individual has disruptions of income. Additionally, income supports must be accompanied by an effective system for providing other supports such as

assistive devices, human assistance etc, that help a person overcome barriers and participate effectively in the community.

Given this, the associations support the intent of Bill 142 to enact the Ontario Disability Support Program Act as a separate entity from general welfare. Additionally, we support many of the key objectives of the ODSP as described by the minister, and I refer to the minister's address to the Legislature on August 19 when she said that the bill will end frequent retesting and reassessment to determine eligibility for supports.

She also said it will provide lifelong support for individuals who require it, will allow people to live with as much independence as possible, will provide for the unique costs that result from disability, will end delays in the reinstatement of benefits when an individual loses his job, will raise the limits on cashable assets and on retention of compensation awards, will remove the fees for technological aids that assist in daily living, will allow families to make contributions to their loved ones without triggering a financial penalty, will allow families to contribute towards other costs to improve the quality of life of their family member, and will provide more generous rules governing family trusts.

The minister has further stated at various times that all recipients who qualify for family benefits as disabled or permanently unemployable or aged at the time the new legislation would come into force would be grandfathered into the ODSP, and people with disabilities would have no reduction in benefits under the ODSP. These are very important statements the minister has made, and if Bill 142 can achieve these key objectives as the minister has pointed out, we will be very pleased.

Unfortunately, there are parts of the legislation that concern us, and in particular I will address those parts. Bill 142 provides only a legal framework for the new social assistance system, relying on regulations to describe practically every element of the new system. As we know, regulations can be changed over time with very little public consultation.

We believe the bill relies too heavily on these regulations that are easily changed. One of the key measurements of the quality of a support system for people with disabilities must be that the system is stable, reliable and long term. How can the minister ensure that people receive supports that are lifelong, as she promised, when the system providing these supports can be changed at any time without public consultation?

Some specific concerns about the legislation: Many of the key issues we would choose to comment on are not contained in the legislation but are left to regulations. Nevertheless, there remain a number of issues with the legislation that must be raised. I will focus specifically on schedule B of the bill that deals with the Ontario Disability Support Program Act.

Definition of "disability": I have talked with many self-advocates, people who are labelled with "developmental disability," talked with many families, and their concern seems to centre on the definition of "disability." Time and

again, we have indicated this as a concern. The definition is given as:

"(a) the person has a substantial physical or mental impairment that is continuous or recurrent and expected to last one year or more" — I will reference that word "substantial" within this particular definition later.

"(b) the direct and cumulative effect of the impairment on the person's ability to attend to his or her personal care, function in the community and function in a workplace, results in a substantial restriction in activities of daily living; and

"(c) the impairment and its likely duration and the restriction in the person's activities of daily living have been verified by a person with the prescribed qualifications."

We strongly object to the qualifying word "substantial" that is used in part (a) of the definition. This is an ambiguous term and there is no expectation in the act that this word be further clarified by regulations or guidelines.

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We fear this word may be used to exclude people from the ODSP on the grounds that they are not disabled enough. In fact, we see no other explanation for the inclusion of the word. The definition is full of other less ambiguous qualifiers that suggest that a person's disability must represent a significant barrier to their effective participation in society. It is redundant to say that the disability must be substantial.

We also object to the wording in part (b) of the definition which states "attend to his or her personal care, function in the community and function in a workplace." We believe this is an unreasonable and unnecessarily high measure. The definition is attempting to determine if a person has a substantial restriction in activities of daily living as a result of his or her disability. Why must this restriction be as a result of all three listed elements in (b), as is indicated by the use of the word "and"?

It is quite reasonable to expect that, for instance, a person will be capable of attending to his or her personal care — I know people who are quite capable of doing so — but not function well in the community or at work and, as a result, have substantial restrictions to daily living. This definition suggests that this person is ineligible for benefits because they are capable of attending to their personal care needs. This is a very disconcerting point within the proposed legislation.

A second area is the eligibility for employment supports. As an association, we provide many people with supported employment, both assisting to find employment as well as maintaining that employment. We have long argued that an effective disability support program must contain two distinct components: an income support program and an employment support program. We are pleased that the ODSP is being structured in this fashion. OACL has also argued that employment supports should remain intact even when an individual is no longer eligible for income supports. It is unclear if this is the intention of Bill 142.

One of the problems confronted by people with disabilities as they have attempted to enter the workforce has

been that as their income rises, they eventually reach a maximum allowable income and are ineligible for further support. The result has often been that not only does the person lose income supports, they lose access to other necessary employment supports, placing their employment in jeopardy.

I can cite examples to you of people who have had employment for a period of a year or more who are labelled with a developmental disability and who are now unemployed and finding it difficult to re-enter the workforce. Under this particular section, they would potentially lose their eligibility for employment supports. The ODSP must ensure that people maintain their employment supports even after their income makes them ineligible for income supports.

Liens on property and reimbursement: Bill 142 allows that in prescribed circumstances an individual receiving support must consent to the ministry having a lien against his or her property, or agree to reimburse the government for the income support to be provided. The bill provides no hint as to what the prescribed circumstances affecting this might be, this being left for regulations to describe. OACL cannot foresee a circumstance where placing a lien on an individual's property would be appropriate. Since one of the aims of the legislation is to allow people to live with as much independence as possible, the stability of home ownership is surely one of the things we should be encouraging.

Building equity in a person's home and being free of debt are basic financial goals for many people in this province. People with disabilities seeking security and comfort as they age deserve an opportunity to achieve this as well. The imposition of liens against a person's property or a requirement for reimbursement is unacceptable and contradicts the aim of this bill to promote independence. We call on the government to strike this section from the legislation.

Appointment of person to act for recipient: Bill 142 allows for the appointment of "a person to act for a recipient if there is no guardian of property or trustee for the recipient and the director is satisfied that,

"(a) the recipient is using or is likely to use his or her income support in a way that is not for the benefit of a member of the benefit unit" — the individual or dependants — "or;

"(b) the recipient is incapacitated or is incapable of handling his or her affairs."

There appears to be no requirement for further regulations to this section, or even guidelines describing how a director might determine inappropriate use of benefits or the incapability of an individual to handle his or her affairs. Additionally, paragraph 21(2)4 states that a person cannot appeal the appointment of an individual to act on his or her behalf. OACL and associations across the province have serious concerns about the discretion allowed the director in this section and feel there is a need to be significantly clearer in the guidelines describing the circumstances under which a person is appointed to act on

a recipient's behalf. We object absolutely to subsection 21(2).

The Chair: Mr Klassen, I just want to interject to tell you you only have a couple of minutes left.

Mr Klassen: Thank you. I'm just finishing. Other appeal issues: We also object to paragraph 21(2)3, which states that a person may not appeal "A decision to provide a portion of income support directly to a third party." We foresee circumstances where it is appropriate, convenient and sometimes necessary for a portion of an individual's benefits to be paid directly to a third party when, as the bill states, the money is for costs relating to basic needs or shelter. Nevertheless, people have a right to control their personal resources, and any redirection of an individual's benefits must be done in keeping with the person's wishes. As such, the individual must have the right to appeal any decision to direct their personal benefits to a third party. I'll move quickly on.

Preparedness for employment: Clause 33(b) states that a person is eligible for employment supports when "the person intends to and is able to prepare for, accept or maintain competitive employment." How will it be determined that a person is able to prepare for and obtain employment? It concerns us that this term "able" may mean "is in a position to work at this time," or does it mean "is capable of employment"? If the phrasing of this section implies that a person must be able, meaning in a position to work at this time, we have no objection but ask that the section be reworded to reflect that.

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In conclusion: The association's main issue with this bill is that so much of the bill has been left to the development of and the writing up of regulations. A few of the services that people need will be protected, and they must be protected by legislation — regulations cannot do that. While we support much of what the minister says they are trying to achieve with this legislation, it is impossible to support the bill with so much left unanswered. We ask that the government revisit the key elements of the ODSP in particular, with a view to entrenching much more within the body of the legislation.

Finally, we must express our disappointment and dismay at the lack of opportunity for people who will be profoundly affected by this legislation to participate in the passage of this legislation. Many organizations and many people, people I know personally, have profound insights to offer the government regarding social assistance reform. It is truly unfortunate that the government could choose to ignore this advice. I thank you very much for this time and I wish you well.

The Chair: Thank you, Mr Klassen. I regret that the government's time allocation motion doesn't allow us to hear from everyone who has asked to appear, but we thank you for your thoughtfulness. I ask you to deposit your notes with the clerk of the committee so we could have them as a record. She will photocopy them and give them back to you this very morning, if that's all right.

Mr Klassen: This is given in written submission to the committee from the Ontario association.

The Chair: Terrific.

Mr Klassen: I was advised on Friday of this last week that there was a cancellation, so I have sketchy notes. I'm sorry I wasn't able to provide a written submission.

The Chair: It's quite all right. We understand. But it would help us a great deal if you could deposit with us what you have. Thanks so very much.

AIDS COMMITTEE OF NORTH BAY AND AREA

The Chair: I ask the AIDS Committee of North Bay to come forward, Jane Howe. Welcome. We're very pleased that you're able to be with us this morning. You have 20 minutes for your presentation. If there is any time, the committee will ask you some questions.

Ms Jane Howe: Great. Thank you. My name is Jane Howe. I am the executive director of the AIDS Committee of North Bay and Area. I'm making this deputation this morning on behalf of my board of directors, the staff and the service users of our AIDS committee.

Our AIDS service organization provides support and prevention education in a fairly large catchment area extending from east Parry Sound to the Cochrane district. Our service users reflect the many faces of HIV/AIDS. We are women, men and children who struggle to live with this infection in an area where discrimination grounded in fear is still very much a reality and where access to adequate services can be a great challenge. Most of our service users face the barrier of attempting to acquire a primary care physician knowledgeable about HIV, and all of them experience the ongoing trial associated with reaching the HIV clinic, which can take up to eight hours' travel one way from the farthest point in our catchment area.

Acquiring social supports can be equally problematic. I think of one very ill service user who arrived at our office one cold fall morning from Ottawa. He had walked from the detox centre in a cold rain to ask for help in relocating. He felt that if he moved to a smaller city like North Bay he might be able to remove himself from the temptations of life in a larger centre and gain control of his substance use. So he began the great round of social services, which took him from the crisis shelter to the FBA office, to the food bank, to a fruitless attempt to find adequate, safe and affordable housing — all of this while he was quite, quite ill.

I think you get the picture from that story. For this service user and for so many others, the attempt to acquire the basic necessities, along with adequate medical care, is an ongoing struggle, exacerbated by an illness that leaves people feeling fatigued and extremely unwell most of the time.

What strikes me the most about people living with HIV/AIDS is the debilitating stress that is their everyday reality, a stress that affects physical as well as emotional and mental wellbeing. This bill has really added to the stress of the people who use the services at our AIDS

committee as they contemplate what the proposed changes may mean for them.

Most of my remarks this morning concern the Ontario Disability Support Program Act. Our first concern, really, when we first read the bill was the definition of "disability" and the eligibility of people with HIV/AIDS under the new definition. We understand that some of our original concerns have been addressed and that persons with HIV would definitely meet the medical aspects of eligibility, while the "activities of daily living" test would form another aspect of the eligibility requirement.

We have been informed through our partners at the HIV/AIDS legal clinic that in a meeting with government officials it was made clear that the wording of the definition of "disability," particularly around the activities of daily living, would be subject to an amendment to the initially proposed legislation. The amendment would make it clear that an individual would have to demonstrate a substantial restriction in one or more of the abilities to attend to personal care, to function in the workplace or function in the community. We also understand that the issues of side-effects from treatment regimens, inability to have consistent attendance at work and fears around confidentiality due to treatment regimens in the workplace would all be considered examples of restrictions substantial enough to meet the test for eligibility as set out in the ODSPA definition of "disability."

However, we are not clear about whether or not this information would be set out in regulation or in policy and guidelines. We want some assurance that these guarantees will be written directly into the definition in the legislation. If this is not to be the case, we would strongly insist that information with respect to what constitutes substantial restrictions be established in the regulations and not left to policy or guidelines.

Because so much of the actual substance of this piece of legislation is left to regulation, it's essential that people who are most affected by Bill 142 see those draft regulations before the passage of this bill. It's absolutely necessary for people like AIDS service organizations to see them so that we'll know what kind of effect and impact this legislation will have on the people we serve.

We are also a bit concerned about the forms that will be required to establish an individual's eligibility for ODSPA. We were informed that two forms will be required: a medical form, to be completed by a physician, as well as an "activities of daily living" form, which can be completed by a qualified individual from a predetermined list approved by the ministry. It's unclear to us whether the ministry is willing to provide compensation for the completion of the "activities of daily living" form, and we have serious concerns that our service users will not be able to access the services of qualified professionals unless adequate compensation is made available by the ministry.

Another area of grave concern is the appeals process as proposed in Bill 142. I suspect you'll hear that all day. In a bill that impresses me as being punitive and mean-spirited, the appeals section is the area that most clearly

demonstrates the fundamental breach of the rights of those in receipt of social assistance. As it stands now, the right to appeal a decision about one's eligibility for assistance is too easily lost. Bill 142 says that no individual has the right to appeal a decision unless an internal review of the ministry's decision is first requested and carried out. However, as I read the legislation, there is no framework for carrying out this internal review process. Time limits for requesting an internal review, as well as the time frame for completion of the review, are left to regulation. Because we haven't seen the regulations, we don't know what they'll be. The only thing we do know is that, because they are in regulations, they can be changed without notice or public consultation.

There is no right to appeal a decision once the time limit for requesting an internal review has expired and no review has been requested. There is no mechanism for seeking an extension of the time limit for requesting an internal review. Bill 142 contains no requirement on the part of the ministry to have benefits continue during the internal review process. Furthermore, the ministry is not required to notify the recipient of any of its decisions during or after the internal review process. If the ministry simply never completes its internal review, you have no remedy. You never get the right to appeal to the tribunal, because the internal review has not yet been completed.

One situation that's possible is that of a person with HIV who is in hospital with pneumocystis. While there, she gets a notice that she has been cut off benefits for failing to provide a rent receipt. While she is in hospital being treated and recovering, the time frame for requesting an internal review is passing or has elapsed. Because of the failure to request an internal review, she loses her right to appeal to the tribunal and the original decision to cut her off becomes final. The only recourse she has is the court system, provided she has the energy. But remember, while she pursues this process, there is nothing which guarantees that she will continue to receive benefits — no interim.

But that's not all. Imagine that our service user does get notice and requests an internal review within the time limit. Bill 142 doesn't require the ministry to notify her of its decisions in the internal review process. They may decide that the original decision is correct, but without notification, how will she know to request an appeal? Once she misses the deadline for appealing the review, she loses all right to appeal that decision.

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The legislation, not the regulations, must include a requirement on the part of the ministry to notify individuals of any decision made during the internal review process. The legislation, and not the regulations, must include the time limit for requesting an internal review, the time frame for completing an internal review and a legal remedy for individuals whose internal reviews are not completed within the time limit. The legislation should not be an open-ended list of items which are not appealable.

When I discussed this concern with Mr Harris's executive assistant at the riding office, it was her opinion that

we need the list of exclusion on appeals in order to ensure that taxpayers are not deluged with costly appeals. It occurs to me that the right to appeal decisions which impact the ability to access very basic necessities should not come with a pricetag attached. What are we saying about ourselves as a province if basic human rights are viewed primarily through the lens of the cost to taxpayers?

One of the areas identified in the bill as being an area where appeal rights are denied is with respect to the decision to appoint a person to act on behalf of the recipient. Denying individuals the right to appeal the appointment of a trustee or direct payments to a third party is completely unacceptable. As AIDS service organizations, we have seen and heard of many abuses arising out of power of attorney. Bill 142 sets the stage for similar abuses and offers no legal remedy.

Imagine again the situation of an HIV-positive man living in a same-sex relationship. The ministry appoints his parents as trustees because they feel he is not managing his benefits appropriately. His parents have never approved of his orientation or of his choice of partners. As trustees who are not, according to Bill 142, accountable to their son, they stop paying his share of the rent, resulting in eviction. Because they control his finances, they can dictate where their son will live. Meanwhile, the partner loses his home and his partner. The son has absolutely no legal recourse because he has no right to appeal the appointment of his parents as trustees. The potential for this kind of abuse is significant, especially within our community where the majority of individuals living with HIV/AIDS in Ontario are gay men.

This example and others are common to those in the HIV/AIDS community. People living with HIV/AIDS are already stigmatized within our society. Poor people living with HIV face an even greater burden. The bill has the potential to cause even greater hardship, guaranteeing that poor people living with HIV/AIDS will face even greater stress, resulting in ill health and perhaps even death. I don't believe this government would knowingly contribute to such a situation.

We would also like to add our voices to those who have expressed real concern about the exclusion of drug and alcohol addictions, as set out in the ODSPA. We believe this exclusion is discriminatory and must be removed, but we also believe this is an issue that has public health ramifications. It has an impact on public health in regard to the increase of infections in this population and in regard to the dependence of people who are injection drug users. We've already seen the rates of infection in users in Vancouver rising astronomically. They say one in four injection drug users in that city are infected with HIV. We don't want to see a situation like that, where injection drug users are driven further underground and become infected, but that they can get the help that they need for themselves and their families.

Please don't help to create a situation which may lead to even higher rates of infection. We're seeing the rates of infection in northern Ontario from injection drug use climbing too, and we don't need to see any more of an

increase. We believe harm reduction really is the only approach that works with injection drug users. The approach the government has taken by excluding people with alcohol and drug addictions does nothing to address the problem, and may in fact make things worse.

We have a deep concern about income restrictions relating to gifts. We want assurance that such things as food received from food banks, emergency grants received from community organizations like ours or from friends and same-sex partners not be counted as income. We would also like some assurance that compensation arising out of blood settlements awarded to individuals affected with HIV or hepatitis C be exempt from consideration as income for the purposes of both the ODSPA and the OWA.

We also register our objection to the direction of the bill which would turn benefits received into a debt which must be repaid. The section that deals with liens against recipients' homes is particularly problematic. We understand that liens are registered against title so anyone searching title will know that the person is on benefits. When the house is sold, or sometimes when the mortgage is renewed, or when someone dies and the house is inherited, the benefits become payable back to the ministry. In addition, when the mortgage is renewed, the bank will see the lien and know that you are on benefits and may not want to renew the mortgage. Some mortgages automatically become payable in full when a lien is placed against title. We fear the section dealing with liens and with other cost-recovery methods sentence people to ongoing poverty and possible homelessness.

Finally, I would like to add my voice to the speaker before me who talked about his concern around those who are currently on disability. We understand that individuals with HIV and those currently on benefits will not be reassessed in the future. We need to see that promise carried through. We take the position, along with our sister ASOs, that if individuals who are currently in receipt of benefits are to grandfathered on to the new legislation, there should be a guarantee that if they do become subject to reassessment after the enactment of Bill 142, they be reassessed under the eligibility criteria through which they were originally deemed eligible. To do otherwise, it seems to us, would be to change the rules in the middle of the game and have a serious effect on individuals' abilities to maintain stability in their lives.

I would be remiss if I did not convey to this panel that the difficulties and problems outlined in this deputation are not exclusive to the HIV/AIDS community. The drastic changes, as outlined throughout the bill, will have a devastating effect on every individual who comes or who may come into contact with this legislation.

Part of our mandate as an AIDS service organization is to raise community awareness and engender a compassionate community response to people living with HIV. This bill, with its emphasis on individual responsibility and its divestment of community care and concern for the most vulnerable among us, does nothing to help us with that mandate, and will in fact lead to even greater divisions within our communities.

We struggle every day with the attitude that says, "Those people with HIV and AIDS get what they deserve." As one person in the community said to me, "Let the bastards die." We need strong government leadership that sees the real needs of the most vulnerable among us as something more than special interests to be sacrificed to deficit reduction. We need government leadership that upholds the values of community and compassion and opportunity for all citizens of Ontario.

Thank you for your time.

The Chair: Thank you very much, Ms Howe, for your presentation. You've exhausted your time. We're very grateful for your participation here today.

May I ask Janice McMahon to come forward.

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Mr Peter Kormos (Welland-Thorold): Chair, if I may, while Ms McMahon is being seated, I wonder if the parliamentary assistant would respond to both the last presenter and the Lakehead Association for Community Living with respect to this concept of grandparenting de facto FBA recipients.

Mr Jack Carroll (Chatham-Kent): Just quickly, the situation is that whenever the new legislation is enacted, anybody currently on the system, on there in the ODSP and defined as disabled, will continue to stay on the system; their benefits will continue. If they leave the system at some point in the future for a period of longer than 12 months for employment opportunities, so a continuous period of longer than 12 months, they would need to come back on to the system as the new system would stand. But if they left for four months to work and found out that for some reason or other they couldn't continue to work, they would automatically be reinstated quickly under the system. So those people currently defined as disabled will be grandparented under the new system regardless of whether or not they would qualify under the new definition.

JANICE McMAHON

The Chair: Ms McMahon, you have 20 minutes for your presentation. You may use it as you wish. If there's time, we'll ask you some questions.

Ms Janice McMahon: Thank you for the opportunity to present my views and opinions with regard to the Social Assistance Reform Act, referred to as Bill 142.

As a former employee of Low Income People Involvement and Window of Opportunity, two government-funded programs to assist socially disadvantaged persons with the skills to become productive, self-reliant members of their communities, and as a former social assistance recipient myself, I am very concerned with what this government's agenda will be for social assistance recipients: people in need.

I followed our current government's restructuring within our province and it is very apparent to me that our government's views on social reform and the views of myself and many other members of the public, your employers, are really quite different. We all agree that our province's deficit was and is a definite problem that had to

be addressed. However, who should bear responsibility for the problem has become a very large and real debate, I believe. We, as Ontarians, are all responsible to a certain degree; however, some are not as eager as others to accept this responsibility. I assume it may be easier for some people to choose to ignore the realities of the problem or to place blame. Personally, I have a conscience, and for this reason I feel it is my obligation to address you.

I cannot reject nor support Bill 142, which I have thoroughly reviewed, as I feel I am unable to intelligently analyse its content, or lack of, with respect to what the changes will be and what control the government will have over the lives of social assistance recipients or applicants. Under the new Social Assistance Reform Act it is stated that "maybe" we will do this, "if" we decide to do that, under the new regulations. How are we to respond to the "maybes," "ifs" and new regulations if we have no idea as to what they will be? This Bill 142 is very vague, and I feel it was intentionally written as such.

What I specifically obtained from Bill 142 is that the Conservative government wants us to provide them the authority to do whatever they so choose with whomever should find themselves in need of social assistance for whatever reason. There will not be anything anyone will be able to say to dispute anything the government chooses to do if we accept the bill as it is written. Well then, you are asking us to place 100% faith in this government to assume that they will treat the socially disadvantaged and needy people of our province justly? I think not.

If I sound cynical, it is intentional. We have already seen how cruel, manipulative and self-serving this government's agendas have been thus far. It is quite obvious who have been centred out as the culprits for the province's deficit problem: the poor, the elderly, the disabled, the sick people who require our health care services — the people who truly do require our province's support and assistance.

In Bill 142 it is repeatedly stated that one of the purposes of the reform act is to make social assistance recipients "accountable to the taxpayers of Ontario." My response is that, as a taxpayer and a current member of a taxpaying family, I would much rather my taxpaying dollars be used to help those in need and not those motivated by greed. If you do not consider yourself one of the latter and there is truly any purpose to this hearing, I ask that you listen attentively and respond appropriately when developing your Social Assistance Reform Act.

Let me provide you with a few scenarios of someone on social assistance and then you tell me what kind of acceptance and public support you think they deserve from their fellow community members. I could go into detail in each of these scenarios, as I have worked to assist such people or have been in the situation myself. However, time does not permit this, so I will provide you with basic information. I would be more than willing to provide additional information if you request.

The Chair: Take your time, Ms McMahon, please.

Ms McMahon: I said I wasn't going to do this.

The Chair: This is an emotional subject.

Ms McMahon: It is.

Mrs Mitchell: May I come and sit with her?

The Chair: Feel free.

Mr Peter L. Preston (Brant-Haldimand): I don't think we'd object if her friend read the balance for her.

Ms McMahon: No, I would like to read it myself.

The Chair: If you're ready.

Ms McMahon: First, one scenario is Jane marries John and they have two children. They live a normal middle-class life and then John loses his job through no fault of his own. Jane has never worked outside the home, as John's income had been adequate for their personally chosen lifestyle. Jane obtains a job at a doughnut shop, but John experiences great difficulty in obtaining employment. He was a proud, hardworking, taxpaying man up to this point. They owned their own home, had a reliable vehicle and provided well for their children. All was well.

He now had to turn to social assistance for "temporary" help. They lost their home, their vehicle and all other liquifiable assets. John looked endlessly for employment, but with the economy at a 10% unemployment rate, he could not find work to support his family. He became stressed out and began to feel the public's stigmatization towards him and his family. They were referred to as "taxpayers' burdens" and "welfare cases." John listened to endless comments about how he and his family were responsible for the province's financial crisis.

Shame and guilt added to John's stress and he began beating his wife and then his children. He told her that if he wasn't burdened with the responsibility of her and the children, he could probably find a job to support himself and then he wouldn't be looked down upon by the fellow members of his community.

Jane had no alternative but to leave John and go on social assistance to provide for herself and her children. Minimum-paying jobs as a sole-support parent, after basic expenses, that provide no benefits are virtually impossible to exist on in this economy.

Some Janes get killed by their spouses before they acquire the courage and strength to leave. Some Janes and Johns turn to substance abuse to hide their pain and humiliation. Some children, like John and Jane's, witness or are subjected to the abuse of socially suppressed, stressed-out parents. Some children end up dead, in foster care, addicts themselves or recipients of social assistance.

Had we initially taken different approaches with these people in need, most, if not all, of these circumstances could have been avoided. We do not accept these people as victims of circumstance, as they usually are. We judge them as taxpayers' burdens because of the minority of abusers who use the social safety net inappropriately.

People don't choose to become social assistance recipients. For the majority it is not a career choice, even for the young single children who are products of their poor environments, kicked out of their homes at 16 and told by their uneducated, socially unaccepted parents to go to the social assistance office for support because they can't afford to offer them the opportunity of further education which people like them are not worthy of

anyway. In their eyes, no one cares about them and their children anyway, and that is the only opportunity they feel is available to them. Even those children, given some hope and options, would choose a better lifestyle. To assume otherwise of the majority would be ludicrous.

Picture waking up every morning enjoying the fact that you don't know how you are going to stretch your social assistance dollars to the end of the month to provide for your and your family's basic needs, worried when your child is sick because you cannot afford a telephone or a vehicle to call anyone or obtain medical attention if the sickness worsens through the night — sicknesses obtained while living in substandard housing and eating nutritionally deficient meals.

I could go on and on about the realities of the issues these people deal with. I think the abusers of the system end up as abusers because they are the ones who just give up. However, the point is, who would choose such a lifestyle if they truly felt they had an alternative choice in life? You may feel that they do have a choice; however, you make those assumptions through your eyes. They need our help and support when they are in crisis.

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Some require education and social skills to see life through "our" eyes. All people who find themselves on social assistance need our emotional support in some form or another, and they all require realistic financial support to live like equally righteous human beings in our society so that they can lift themselves out of the trap called social assistance.

Instead of spending millions of dollars on social assistance reform and probably billions on its after-effects to please the brainwashed taxpayer and get the votes, why is our focus not on investing in our province's future through job creation? Why do we cut worthwhile programs, such as the ones I worked for, that assist these people to obtain meaningful employment? This is where our focus should be, not on blame and shame and suppression of the economically lower classes. Make people accountable, but provide them with the means and opportunities to be accountable. Stop with the shame and the blame. We as a civilized race should work to get these people back on their feet again or on their feet for the first time. These people bear enough burden, and public humiliation is hardly going to motivate them to become productive, employed, taxpaying members of society.

When comprising your regulations for Bill 142, I request that you do a thorough assessment of what adequate housing costs are in each region of our province, what adequate nutritional food consumption would be based on family size, what should be considered as basic needs to get these people off social assistance and into the workforce. I ask that you be humane and realistic when you establish policy that will make or break these people. You must do the research and not just blindly develop unrealistic regulations, make a difference and not just perpetuate a larger social problem.

We have already seen that with the 20% cuts to the poor that were implemented when the current government

first came into power. In their attempts to appease the wealthy upper-class supporters, we experienced an increase in the number of abused children and spouses, an increase in divorce and separation rates, and an increase in homicides within families. We experienced an increase in food bank usage and the need for public support. And how did we respond? By fabricating statistics to appease the wealthy supporters of this government, and by cutting social programs and support systems for these people even further. Now I dread to think what Bill 142 truly holds in store for these people.

It is inhumane to blame these people for our social problems, and it is unrealistic to assume that these people will obtain and maintain employment without the skills or the available job opportunities to do that. We need to further invest in our social service system, not further suppress it. We can either pay now or pay later. If your concern and drive is deficit reduction, I suggest you honestly assess where our taxpaying dollars are really going. Thank you.

The Chair: Thank you very much, Ms McMahon. Do you feel up to answering some questions?

Ms McMahon: It depends what the questions are.

The Chair: It's entirely up to you.

Ms McMahon: Yes, I do.

The Chair: We then have about a minute and a half per caucus. We'll begin with the official opposition.

Mrs Sandra Pupatello (Windsor-Sandwich): Thanks for your presentation today. It is an emotional topic, affecting people's lives like this.

I have a question for you about the comments the minister made that were on the front page of your North Bay Nugget on Saturday. She said that individuals on assistance have told her they want to be fingerprinted. In fact, I think her quotes were, "Many of them have said to me they support tougher tools to prevent misuse of the system," and then she went on to say that it's her intent to use encrypted biometric technologies.

Do you know of any people, those you worked with as clients through your two organizations, who look forward to being fingerprinted?

Ms McMahon: I know of absolutely none who would look forward to that. That's further stigmatization as far as I'm concerned. If we're going to fingerprint them, then fingerprint people who get a health card, anywhere where fraud can take place. Why are we just saying that we're going to do that with people on social assistance? That's further stigmatization as far as I'm concerned.

I don't think any of the people I worked with would support that. It's making them feel like a criminal because they find themselves as victims of circumstance. Now they're going to be, like a criminal, fingerprinted. No, I don't think there would be anybody I ever worked with and dealt with who would support that. I don't know where she gets those statistics from.

Mrs Pupatello: We haven't had anyone presenting to us yet who's told us they are in favour, and those mostly are the groups that are speaking on behalf of individuals

receiving assistance, so I don't know where she's getting it either.

The Chair: Mr Kormos for the third party.

Mr Kormos: Ms McMahon, you've said it as well as anybody could — far better than I could — and I'm grateful to you in that regard.

You might be interested in knowing this, and again these are some of the just remarkable contradictions that we live with in this brave new world, this brave new Ontario: One of the first things this government did upon acquiring power was, as you know, the 21.6% slashing of social assistance benefits. Within weeks of doing that, they introduced and then passed legislation that increased MPPs' salaries by approximately \$10,000. That's for the lowest-paid MPP. They increased the expenditure for wages and indemnities etc for MPPs by 40%, effectively increasing the pay of MPPs by 40%. I know that Carroll gets all smoking and hot and bothered when I mention that.

Ms McMahon: I'm very aware of those statistics, but I didn't want to bring those before the table because I thought you hear so much of that. There's such a "he said, she said" in politics and nobody's listening to the real issues. I thought, if I bring those factual statistics to the table and start bashing and start talking about the injustices, you're going to miss my whole point of what I stand for.

Mr Kormos: We didn't miss your point, and that's why I made a point of mentioning the irony —

Ms McMahon: Yes, I know the ironies.

Mr Kormos: — of MPPs giving themselves huge wage increases contemporaneous with beating up on the poorest folks in our society.

Thanks so much for coming here today.

The Chair: Mr Carroll for the government.

Mr Carroll: Thank you very much, Ms McMahon, for your presentation. I admire you coming forward and discussing such an emotional issue.

You said in your brief, "Why is our focus not investing in our province's future through job creation?" That is an excellent question, and I really do believe that is our focus.

When Lana made her presentation this morning, she commented that the North Bay Ontario Works program is an excellent program. Have you got an impression of the North Bay Ontario Works program from your experience that you could share with us? Do you think it's the right approach to encourage people to get some education, some training, whatever, so that they can break out of that cycle of dependency? What do you think about the Ontario Works program?

Ms McMahon: I think it's good in the respect that it offers them to volunteer their services and to get recognition within their communities.

I was on social assistance, like I stated. I graduated from university with a bachelor's degree in psychology and couldn't find employment here in my community. My family's here and my spouse has a really good job here and I didn't want to leave. I looked endlessly for like

seven months and couldn't find anything, and my academic adviser at the university suggested I volunteer my services and make a name for myself. So I did that, and volunteering assisted me to obtain employment.

However, now I think there are many people who take advantage of social assistance recipients through Ontario Works. It's free labour. I don't think the statistics are very high since it's been implemented as to people obtaining part-time or full-time employment. A lot of the people who work at the Ontario Works office here were clients of mine. They're still on social assistance. They volunteer their services full-time there.

We need to create jobs in the economy for these people who acquire the experience through volunteering through being in Ontario Works that they are going to go able to go to.

The Chair: Thank you, Ms McMahon, for your courage in coming here and for the clarity of your message. We wish you every success.

Mrs Pupatello: I have a question for the Chair.

The Chair: May I call the next presenter, please, Mrs Pupatello? The income maintenance study group of the northern legal clinics, Sarah Colquhoun, and if I've mispronounced that, you'll correct me. Ms Pupatello.

Mrs Pupatello: To the parliamentary assistant: John Klassen, who presented earlier, indicated in his presentation that the Ontario Association for Community Living, in discussions with ministry officials, have been told about some form of amendment. I would like to see what amendment that was, because clearly outside organizations are privy to information that this committee has not yet been given. So I would like a copy of the amendment and/or the discussion paper that was had with the Community Living people.

Mr Carroll: If I could just make a quick comment on that without getting into a debate, the minister has stated to this committee, as I have stated to this committee, that the intention of the legislation as regards the definition is that a significant impairment in one of the three areas, not in all three areas taken together, would qualify somebody for the designation of disabled. She has said that publicly. She said it to this committee. She has said that the language would be cleared up. That is her intention, and that will happen at the appropriate time.

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The Chair: Mr Carroll, the question was, is there an amendment and any discussion paper? That's what you've been asked for.

Mr Carroll: That's right, and the commitment of the minister is to clarify any misunderstanding that there might be around the definition.

Mrs Pupatello: Chair, is there an amendment prepared, then, and has one been distributed with outside groups that has not been distributed to the committee? We asked for amendments three weeks ago.

The Chair: The response is no, there has been none.

INCOME MAINTENANCE STUDY GROUP, NORTHERN LEGAL CLINICS

The Chair: Ms Colquhoun, thank you very much for being here. You have 20 minutes to make your presentation. If there is any time, the members of the committee will ask you some questions.

Ms Sarah Colquhoun: Thank you very much. My name is Sarah Colquhoun, and I am a lawyer with the Kinna-Aweya legal clinic in Thunder Bay. I'm also the chair of the income maintenance study group for northern legal clinics. Our study group is comprised of legal workers and lawyers in the 12 legal clinics in northern Ontario. We meet three times a year at our northern training sessions, where we have an opportunity to share information and strategies and case conference about issues particularly with respect to social assistance, although we deal with other income maintenance programs as well.

We have a great deal of experience with the social assistance system in Ontario as it presently exists. Much of the work that we do at legal clinics is appeals on behalf of people who have been denied benefits from general welfare or family benefits.

As you know, Bill 142 is a proposal to radically change the social assistance system in Ontario. As legal workers and lawyers who have extensive experience with the present system, the income maintenance study group of the northern legal clinics have grave concerns about many aspects of this bill, from its major philosophical shift away from the purpose of providing benefits to people in need, to numerous practical problems with the language of the bill which we are certain will result in increased hardship for low-income citizens in Ontario.

This is a massive piece of legislation. It is being pushed through the legislative process far too quickly. The committee knows that only a fraction of the interested groups and individuals who wanted to appear before you to respond to the bill have been given an opportunity to do so. There has been very little public debate about the significant changes that are being proposed. For a number of reasons, debate in the Legislature has been curtailed by the government. The government has refused to issue the draft regulations which have been prepared to enable us to review them and provide our insight into those regulations.

Your committee has been given only eight days to consider this huge piece of legislation. It's far too short a time frame. We would like to go on record as opposing the undue haste with which the government is proceeding to make unprecedented changes to the fundamental underpinnings of our social safety net. Just as eight days of committee hearings is far too short a time for you to properly consider this massive bill, 20 minutes is far too short a time to allow us to provide a comprehensive critique of this legislation.

What I will do this morning is highlight several of the most pressing issues, and I will urge you to carefully consider the recommendations in the brief presented to you by the Steering Committee on Social Assistance. The steering committee is a provincial organization of legal

clinic workers. We endorse their detailed brief, which I expect you will recall receiving in Toronto. It's approximately 80 pages long and has 40 specific recommendations of changes that should be made to wording of the bill as it is now, changes that will substantially improve the legislation, although we disagree with some of the philosophical underpinnings of the legislation as well.

The first issue that I would like to briefly highlight is the purpose of the legislation. From the early part of this century when we first had social assistance legislation in Ontario, the fundamental purpose of the legislation has been to provide benefits to people in need. That's the overriding purpose of the legislation that we deal with currently.

The language in the purpose sections, particularly of the Ontario Works Act, is misleading in several respects. The emphasis on promotion of self-reliance through employment ignores the larger economic realities and the simple fact that there are not enough jobs for all the people who are on social assistance in Ontario. That is why they're on social assistance: because they cannot find work.

People on welfare now have very stringent job search requirements. They have to be looking very hard for any work, casual, part-time, or full-time, that might be available to them. They're not on welfare because they don't want to work. They're on welfare because there are not jobs for them.

All government programs should be accountable to the taxpayer, so it seems redundant to include that in the purpose section of the Ontario Works Act. We feel the inclusion of the phrase is an offensive implication that welfare recipients are not taxpayers, which of course they are. They pay consumption taxes. They pay income taxes when they're working, and most people on general welfare in Ontario are only on assistance for approximately six months. They work before they are on assistance; they work after they are on assistance. They are taxpayers. They pay property taxes through the rents they pay to their landlords. The inclusion of the phrase "accountable to the taxpayers" we suggest is an offensive implication that welfare recipients are not taxpayers and that they are somehow less important than other citizens in Ontario.

Because the purpose of the legislation is shifting away from providing benefits to people in need, there will be numerous situations under this legislation where people in need will not receive benefits. That's clear. The purpose now is to provide "temporary" assistance to those "most in need." It's a clear acknowledgement that there will be people in need in this province who will not receive benefits they need to provide housing and food for themselves and their families.

What will happen to these people in our communities who have no income and no way to pay for food or shelter? In some communities they will have access to emergency shelters, food banks and soup kitchens, which along with other similar agencies are finding their resources stretched to the breaking point already. In other northern communities there are no such agencies. People will

freeze to death. You may think we are exaggerating, but the imposition of the three- and six-month penalties for losing employment that came about by regulation change in 1995 have already caused significant hardship in our communities. We see people in our offices every week who have been denied welfare because of a decision that they lost their job due to wilful misconduct who have no money, have no resources, have no family that they can stay with. They should be eligible for general welfare and they are not.

These penalties are being extended in Bill 142 to cover other groups of people. The bill also includes the power to make whole categories of people ineligible for assistance by regulation with no public debate, no debate in the Legislature. The minister or cabinet can make regulations that will deny benefits to any category of people. Denying basic benefits to people who have no income or assets because of what a social worker may in hindsight feel has been faulty judgement on the part of that person is cruel and serves no public policy. It is cheaper in the long run to provide welfare benefits than to force people into crisis, leaving them no option but desperate measures.

As legal workers in the legal clinics in northern Ontario, we spend much of our time helping people appeal decisions about their social assistance: denials, cancellations, reductions of benefits. We have many concerns about the appeal system set out in Bill 142, and again we would urge the committee to carefully consider the detailed recommendations of the Steering Committee on Social Assistance.

The Social Assistance Review Board that we appear before now is a mature, competent administrative tribunal. It is wasteful and ill-advised to disband this tribunal and create another. I cannot imagine what the rationale is to say, "Oh, the Social Assistance Review Board will no longer exist," and we will now create the Social Benefits Tribunal. Just the cost alone of changing all the letterhead and breaking the lease the Social Assistance Review Board has in Toronto makes no sense.

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All important decisions about social assistance should be appealable to the tribunal, whichever it is, whether it's SARB or the Social Benefits Tribunal. What could the rationale possibly be not to allow an appeal when a recipient objects to their benefits being paid to a third party? What could possibly be the rationale? They don't have an opportunity to dispute that decision. Is the government suggesting that welfare workers never make mistakes? If they are, then the government is wrong. Thousands of decisions by welfare authorities are overturned every year by the Social Assistance Review Board, and thousands of other decisions are resolved without the necessity of a formal appeal. We do more informal appeals than formal appeals to the Social Assistance Review Board. Informal appeals can be successful in many cases, but in just as many cases workers become defensive and try to justify a bad decision rather than acknowledging that a mistake has been made. It's a serious problem for people not to have

the opportunity to appeal important decisions that have been made about their assistance.

The internal review process that has been set out in this bill, what little we know of it, since most of the details will be in the regulations, is problematic for a number of reasons. There are time limits for a recipient to request an internal appeal but no time limits within which the process has to be completed. There's no provision for extending the time to request an internal appeal. People can't appeal to the tribunal unless they've gone through the internal appeal process. The time for appealing to the tribunal can be extended if it's appropriate, but there's no provision to extend the time to request an internal appeal. People don't get notices from welfare offices for numerous reasons: Their mail may be erratic; they may not have a telephone; they may not be able to read; they may have to wait until their relative comes over to visit so they can read the letter for them. It's essential that there be an extension of time to request an internal review.

A notice is deemed to be received three days after it's mailed. I don't know what the situation is in Toronto or in North Bay, but certainly in Thunder Bay it often takes more than three days to receive mail. It's not unusual for it to take a week to get from one side of town to another.

Many of our clients have significant barriers to communication with a bureaucracy: They have literacy problems, English is not their first language, lack of telephone service, unreliable mail delivery. You must make changes to allow for extensions of time and recognition that recipients often will not receive a notice within three days or the result will be serious hardship for vulnerable people in need.

There are a number of recommendations we would make for improvements to the Social Benefits Tribunal. "Members of the tribunal shall be appointed...subject to the conditions set out in the order." That's what the act says now. Appointments to an impartial adjudicative tribunal should not be subject to any conditions not established by law. Security of tenure is crucial to independent and impartial adjudication. Therefore, members of the tribunal should be appointed for specific terms, with the possibility of extension. The tribunal members should be selected not on the basis of their political beliefs but on the basis of their qualifications to sit as independent arbitrators. The government should return to the system of open job competition for the positions as adjudicators on the tribunal, which existed prior to 1995, because independence and impartiality are among the most basic hallmarks of the rule of law.

Bill 142 gives the government power to make rules in areas that would normally be a tribunal's responsibility, such as deciding when to have a hearing in person and when to have a hearing based on the documentary evidence. That's inappropriate. The tribunal should make its own procedural rules.

The time limit to appeal to the tribunal should be set out in the legislation, not in the regulations. We don't know what it's going to be. Presently it's 30 days, with the possibility of an extension, and that seems reasonable.

Interim assistance to people who are in the appeal process is an absolute, fundamental necessity. The repayment of interim assistance is being suggested in Bill 142. The repayment of interim assistance will be a very difficult process as it's set out now. It would be much more sensible to simply give the tribunal the discretion to order repayment of interim assistance in appropriate cases where they felt that should happen, rather than requiring that it be done in every case, no matter what the circumstances, because there will be many circumstances where it was perfectly reasonable for a person to commence an appeal and assume they should continue to receive their benefits.

The pre-hearing requirements in sections 28 and 34 of the Ontario Works Act will cause significant hardship to unrepresented appellants. Appellants will be required to file information required for the appeal within a prescribed time before the hearing. That's going to be very difficult for people who are unrepresented, who don't understand what the issues are or may have literacy problems. Again, the control of the process should rest with the tribunal, not with the government.

Appeals to the Divisional Court at present under both the General Welfare Assistance Act and the Family Benefits Act can be made on questions that are not questions of fact alone, therefore questions of law or mixed fact and law. Bill 142, section 36 of the Ontario Works Act, changes it to a question of law alone. There is no discernible rationale for that change. There is no reason to restrict access to courts. Very few social assistance decisions are appealed to courts at present. Many of the decisions that have been made by the Divisional Court with respect to Social Assistance Review Board appeals have been questions of mixed fact and law. I would urge the committee to recommend an amendment so that continues to be the test.

With respect to eligibility issues, I'd like to highlight one particular issue, which is subsection 7(3), which states, "No person is eligible for income assistance unless" they provide information and verification of information required as prescribed. That means, I have no doubt, there will be people who will be denied benefits. When a social worker wants to give them benefits, they will not be able to because they don't have the right pieces of paper. People lose ID, people are in crisis, they have fires in their homes. There are all sorts of reasons why people will be unable to provide the necessary pieces of paper. The language in the law should be discretionary, not mandatory.

The government is making it almost impossible for young people who have special circumstances and cannot be supported by a parent to receive assistance. That is wrong.

When asked how people will survive on the meagre allowances available after the 1995 rate cuts, the government's pat response was that they could get work and earn back the difference. But what about the thousands of recipients who it is acknowledged cannot work, people who are temporarily disabled, single mothers with special

needs children, unemployable people who do not meet the strict new definition of "disabled," elderly people who will no longer be eligible for family benefits? Those people will not be able to earn back the difference. They will have to survive on those meagre allowances for long periods of time.

This legislation will cause increasing demand for services from all sorts of community agencies: children's aid societies, shelters, food banks, mental health agencies, special education, faith groups. In the long run it's cheaper, more effective and simply better to provide people with a decent income to support themselves and their families than to have to provide all those other services. Thank you for your time.

The Chair: Thank you very much, Ms Colquhoun, for coming here from Thunder Bay to present your views. We really appreciate it. If you wanted to deposit your notes with the clerk of the committee we would be grateful, and if not, we'd understand.

The Housing Authority of Nipissing-Parry Sound, David Thompson? Not here.

1040

PERSONS UNITED FOR SELF-HELP IN NORTHWESTERN ONTARIO

The Chair: We now move to Persons United for Self-Help in Northwestern Ontario, Marilyn Warf. Thank you very much for joining us and for being here earlier than your appointed time.

Ms Marilyn Warf: It's a good thing I came down when I did.

The Chair: We're very grateful you did and that you'd fill in at this time.

Mrs Pupatello: Chair, my concern with not having the presenters or us receiving copies of Hansard, necessarily, is that the committee Hansard is so delayed that amendments will be due well before we have the report of the various presenters. Can we at least know which ones we won't have a copy of?

The Chair: We can provide a list. I've asked, wherever possible, for us to obtain even the handwritten notes that people have to assist us. There have been two so far that we have not had notes for. No, sorry, just the last presenter, because Mr Klassen handed us his notes. But we'll keep a running tab for you. Please proceed, Ms Warf.

Ms Warf: Thank you. Good morning. My name is Marilyn Warf. I'm the regional director of Persons United for Self-Help in Northwestern Ontario.

PUSH Northwest is a 100% consumer-driven organization of persons with mobility, hearing, vision, psychiatric, developmental, neurological and non-visible disabilities who work together to address issues that impact directly on their lives, rights and freedoms. PUSH Northwest and its community-based Disabled Alliance Network groups represent consumers in the geographic area of northwestern Ontario and the Nishnawbe-Aski Nation. Thank

you very much to the standing committee for allowing us to come to North Bay to present the perspective of the consumers in our area regarding Bill 142 and its schedules, the Ontario disability support program and Ontario Works.

Persons with disabilities were very pleased that the goal of the Ontario disability support program was to move them off the welfare system. Consumers have asked the government for years to create a separate system where the specific needs and costs relating to disability could be addressed. Consumers were also pleased with the stated plans to remove the barriers to employment for persons with disabilities, particularly the opportunity to opt in and out of assistance while pursuing employment initiatives and opportunities.

Indications under ODSP to provide additional benefits for assistive devices and improved financial eligibility rules were also well received. Also welcomed were indications for assistance with home and vehicle modifications and integrated attendant services. These benefits, if delivered appropriately, will be of great assistance to persons with disabilities and their families.

However, more is unknown about Bill 142 than is known. We have been asking the government to release more detail regarding the sea of regulations which accompanied the legislation that were non-specific and confusing. Bill 142 gives the government unprecedented power in almost all aspects of the welfare system and it does not provide any rights or entitlements that cannot be removed by regulations.

Consumers are afraid the Social Assistance Reform Act will prove to be very limiting and restrictive. Public opinion seems to be that if the specific detail regarding the regulations were fair and equitable and fully supported, without strings, the proposed intent of Bill 142, then the government would be proud to disclose full regulations; or better still, entrench protection in the legislation. Non-disclosure leads to fear and mistrust.

Will we have regulations that reflect a United States-type reform: time limits on the receipt of social assistance and denying benefits to those classed as "single employable," regardless of disability? We ask again that the full specifics of the regulations be made public now so that we have an opportunity to work with the government to ensure that Bill 142 does not further harm persons already poor or disabled or those who are caregivers for persons with disabilities.

Of great concern to persons with disabilities is the threefold definition for eligibility under the ODSP which qualifies only those who have a disability that "results in a substantial restriction in activities of daily living." The term "activities of daily living" is a health-related term referring to functions such as feeding oneself and toileting. Relating disability only in terms of health does not acknowledge the reality of disability and the socioeconomic impact of being a person with a disability.

Although there was objection to people being classed as permanently unemployable in order to obtain family benefits, this new approach to defining disability has gone

beyond a fair and functional definition. This eligibility criterion will unfairly exclude a large number of persons with disabilities. It would be much fairer to have the definitions used for eligibility testing as alternatives by definition using "or" instead of "and," which makes it a combined test. Disability is a social issue and should not be defined in terms of health, nor assessed only by a medical practitioner.

Since the introduction of Bill 142, persons with disabilities in Ontario have been living with an overwhelming fear that they will be defined out of being disabled and moved to general welfare or Ontario Works, where the income levels will not meet their needs for shelter, food and the cost of disability, leaving individuals in situations where needs for basic living and health are not met. Under the ODSP definition, a person who has a double leg amputation but lives independently and does not require personal assistance for toileting is ineligible. The definition also severely limits the prospects for assistance under the ODSP for persons who have mental illness, developmental, hearing, vision, neurological and non-visible disabilities. The government may remove the definition of "disabled" from an individual, but the reality of the disability remains. So does the need for adequate social assistance, devices and personal support.

It is stated that the ODSP will cover all people on FBA and CPP-D at the time it is passed, but there has been an internal process happening across Ontario through the social service offices where consumer files have systematically been reviewed under an "enhanced verification" whereby many individuals have been deemed ineligible and moved to general welfare. The screening is so severe that persons who are registered as legally blind and are currently protected under FBA are being notified of their inability to meet the definition of disability under enhanced verification. These people have been moved to general welfare. The legal clinics can verify the large numbers of people coming to them for assistance after being deemed ineligible by this process.

Persons with disabilities moved from FBA to GWA will not be eligible for ODSP and will be subsequently eligible only for Ontario Works. There is grave concern about the entire process for persons with disabilities being involved in workfare. Also of great concern are the ramifications of single mothers raising disabled children who must participate in workfare. There is a need to revisit this section of the bill and revise it in a way that recognizes issues of caregivers, issues of assistance contingent on participation in employment, training and community participation, so that we can ensure a proper balance of conditions and responsibility in light of individual realities and circumstances. Again, the release of specific information in regulations would allow for more open discussion of the program and the process prior to implementation. More protection needs to be entrenched in the legislation itself.

The offloading of persons with disabilities from FBA to GWA and restricting them from eligibility under ODSP comes at a time when there is no rent control. We have

more people receiving less money trying to find accessible and affordable, decent housing and food in addition to paying for the cost of their disability on limited Ontario Works levels of support. There has been a provincial moratorium on the building of supportive and geared-to-income housing and now the municipalities are presumably being handed the responsibility to fix this critical situation. Also, there will be no support for persons with disabilities under Ontario Works for paying for assistive devices. Consumers will still pay 50% of equipment and devices under ADP and carry the full cost of supplies that are not currently covered under the program.

This issue demands more consideration due to the health issues associated with the reduced income levels. Persons with disabilities must be considered not just for basic food and shelter but on an individual basis relating specifically to the personal costs associated with their type and degree of disability, which cannot be determined by a blanket value but is as individual as the persons themselves.

The more people moved from FBA to GWA, the less the province will have to pay for as the social assistance responsibilities change hands in the municipal downloading. These are people's lives the Ontario government is playing with. The government has lost sight of the human factor in their headlong charge to lower the deficit. All provincial constituents support deficit reduction, but not at the cost of persons with disabilities or others in need of assistance. The deficit reduction should be from the top down, not from the bottom up and hurting those who are already most vulnerable due to disability and low income.

1050

Under the ODSP, the reference to employment supports is based on an individual's ability to be competitive in the workplace — not functional or productive but competitive. Taking into account that those eligible for ODSP must meet all three criteria, persons on ODSP are likely to be those with more severe disabilities. Will a provision to be competitive further reduce the support available to consumers under ODSP? The decision to grant employment supports or refuse same is not appealable to the tribunal. We are asking that this section be revisited as well. If the intention is to honestly provide assistance, then the definition is too restrictive. If the intention is to offer extremely limited assistance to very few people, then it does work.

Persons with disabilities want to work if they can, when they can and where they can. Persons with disabilities welcome employment supports that would assist them to obtain and retain paid employment, but there must be an acknowledgement of the reality of disability and the variable circumstances for individuals due to disability. Employment supports must be offered in a manner that ensures maximum opportunities for people to access them, and there must be provision for an appeals process.

There are other areas of concern within Bill 142 and its schedules which we would like the government to address prior to passing the bill. The issue of fingerprinting is one of them. When Premier Harris publicly commented on using finger scanning for OHIP cards for all Ontario

residents, there was a groundswell of opposition to the process because it was an invasion of privacy, and subject to the negative outburst, the issue was dropped. Now it will become accepted practice to fingerprint social assistance recipients. Currently, only criminals are fingerprinted. Persons with disabilities feel demoralized and disempowered. What is the subliminal message the government is sending? This provision must be removed until it is common practice for all Ontarians as eligibility for broader-sector access and not just for those on social assistance.

Another concern is the appointment of a person to act for a recipient if there is no guardian or trustee. The income assistance administrator will in effect be determining that someone is incapable without following the provincial legal process directed by the Substitute Decisions Act, and there is no appeal process for the decision. In cases where a condition is variable, such as mental illness, a person may be labelled incapable because the assessment was done during a bad time. The person may be very capable 90% of the time. There must be an appeals process to allow for human error so people do not have to live with bad decisions.

The provision for the government to make payment directly to a third party must be re-examined to ensure that it does not set up opportunities for abuse by those who are in receipt of payment. Consumers are afraid they will end up in a situation where they want to move from an abusive or substandard rental arrangement but cannot because their rent and utilities have been deducted from their income support and sent directly to the landlord, who has declared the tenant is behind in payments. What safeguards and assurances will the government give to those who fear they will become vulnerable and unsafe? Again, regulations and the legislation specific to this section must be provided to alleviate fear and mistrust.

Consumers also fear that the government may deduct student loan payments from support payments, which will mean they cannot pay for their food and shelter.

Bill 142 is an important piece of legislation. It will shape the direction of social assistance for the future. ODSP is separate from the welfare system, and there are indications for delivery of support, education and training that have been long awaited, but there are areas of grave concern that must be re-examined and revised prior to the passing of Bill 142. There are many individuals with disabilities and organizations who would be willing to work directly with the government to address these concerns. We offer the assistance of PUSH Northwest in this regard and encourage the government to take a closer look at some of the provisions of this bill before it becomes law so that the legislation supports the reform objectives as originally stated.

A newspaper article on Sunday, October 19, which was yesterday, stated that the recent survey conducted by the Ontario Social Development Council revealed that the quality of life for Ontario had dropped 14 points from 1990 to 1997. Although this decline in the quality of life cannot all be attributed to the current government, the

Harris government does have the opportunity to slow this decline by ensuring that the Social Assistance Reform Act provides adequate financial assistance, accommodation for disability and employment and training initiatives without provisions that are demeaning and disempowering. We are asking that the government take responsibility to make revisions to Bill 142 so that the quality-of-life downside in Ontario will not continue.

The Chair: Thank you very much, Ms Warf. We have very limited time for questions: one minute for the third party.

Mr Kormos: You talk about this phenomenon of downloading from FBA on to GWA, and I understand why the community of persons with disabilities — all of us appreciate that the Ontario Disability Support Program Act is distinct from a welfare assistance program. But what justification can there be for two tiers of support? Either there is a minimum amount of funds necessary to pay for housing or there isn't, similarly a minimum amount of funds to pay for food and other things. Wouldn't we really start to solve this problem if persons under what will be called Ontario Works had their benefits levels restored to what they were before the cuts so that the minimum basic benefits levels are the same under both programs? Then you wouldn't have the incentive to download.

Ms Warf: Except that if you are only considering basic limit levels, then you are only considering food and shelter and a little bit of money for things like transportation. You are still not addressing the cost of disability, and that cost of disability is critical to the quality of life. If you download people from an assistance program that reflects the cost of an individual's requirements for support or assistance, then you're not really meeting the needs of that individual, and that person is going to be in severe difficulty.

Mr Kormos: Right, but as long as we have the two tiers, there will be a big incentive —

Ms Warf: That's right. There cannot be two tiers. Exactly.

Mr Carroll: Just a couple of quick clarification points. Your comments on the definition are very well founded and well taken. The minister has stated on several occasions that she intends to clarify what we mean there, because it is any one of the three, not each of the three areas. Those are well taken.

You talk about there being no provision for persons with disabilities in the GWA to pay for assistive devices. There will be no persons with disabilities on GWA. They will be on the ODSP, so that —

Ms Warf: That's not true, sir. Currently they are being moved. We have a young woman whom I'm very familiar with in Thunder Bay who is legally blind, protected as it is right now under the laws of FBA, who has been declared ineligible and moved to GWA. She will not be eligible under ODSP. She will be on Ontario Works. So it is happening. It's a process that is being used called "enhanced verification." There has been money sent to the social services offices to go through the files systematically.

People are being dumped to GWA, which means there are people with severe disabilities and very limited abilities to compete fairly in the employment sector. It is happening, so they are being defined out of being disabled, and it's not people with minimal disabilities; it's people with significant disabilities. If you want all people with disabilities to be protected under ODSP, then stop the dumping that is happening right now, because they are not all going to be eligible, and that is a huge concern.

The process does not fit what is being said. The process is happening. Let's acknowledge that it's happening. We've got a huge problem there. It would be wonderful if people with disabilities could all access ODSP. We would be very happy if you can ensure that under the legislation. Thank you.

Mrs Papatello: I just love when the parliamentary assistant says, "It's the minister's intent," because the truth is that what's supposedly intended is simply not bearing out on paper in black and white. We have repeatedly asked for an amendment, which they continue to discuss but we have yet to see, so I'm likely as cynical as you are on that point.

Can you confirm for me that someone who the day before the enhanced verification was legally blind, after the enhanced verification process is now not considered disabled? Is that what you are suggesting?

Ms Warf: That's true, and that person will address the government directly to verify that, but —

Mr Bert Johnson (Perth): The bill hasn't been passed yet.

Ms Warf: No, but when this bill passes, only those on FBA will be eligible, so this individual is not eligible. When she went to general welfare to ask for social assistance, she was told, "We don't look after people with disabilities; go to FBA." We've got a person in limbo who is not eligible for FBA because they've been moved because of enhanced verification and who is not going to be addressed under GWA —

Mrs Papatello: One more quick comment.

The Chair: Ms Papatello, I'm sorry, maybe you could take it up after the session. Ms Warf, I want to thank you very much. I'm sorry the time is so limited; we're trying to get as many people on as possible today. Thank you for coming from Thunder Bay today and voicing your views.

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NIPISSING/PARRY SOUND HOUSING AUTHORITY

The Chair: The housing authority of Nipissing/Parry Sound, Mr Thompson. Thank you for being here this morning.

Mr David Thompson: My comments will be brief. I'll make up some of the time that you are behind.

The Chair: That's quite all right. We want to give everyone their full 20 minutes.

Mr Thompson: I won't take that long. Good morning, Madam Chair, and committee members. Thank you for

this opportunity to comment on a few of the proposed changes in Bill 142, commonly known as the Social Assistance Reform Act.

I am the chair of the Nipissing/Parry Sound Housing Authority, which administers over 1,100 units of social housing in 11 municipalities in this region which includes Mattawa, Sturgeon Falls, North Bay, Parry Sound, South River, Burk's Falls, Callander, Sundridge, Temagami, Field, Caldwell township and Magnetawan. As you can imagine, this is a fairly large area to manage and it is expected to be enlarged with the reorganization of the Ontario Housing Corp and the transfer to the municipalities.

In the province of Ontario, there are approximately 274,000 units of social housing, with approximately 37% of the inventory being owned and operated by the Ontario Housing Corp, managed through local housing authorities such as ours. The remainder are municipal non-profits which are owned by the municipalities and represent 21%; private non-profits owned by private non-profit organizations, 27%; and the non-profit co-ops are owned by non-profit co-op members, which represents 15%.

Social housing in Ontario is funded under 13 different programs, some unilaterally federal, some unilaterally provincial and some jointly. The majority, which represents approximately 75% of the social housing inventory, is provincially administered. About 80% of the social housing tenants have their rents subsidized. These households have low incomes and are assisted either from social assistance, pensions or low-paying work.

In Nipissing/Parry Sound, approximately 60% of our tenants and families are on some form of social assistance, particularly from the Ministry of Community and Social Services. With the amount of rents to be collected each month, there is a constant presence of rent arrears, which average approximately 3.2% of the monthly revenue or approximately \$12,000 monthly. Also, there is 1% of maintenance arrears, such as vandalism, that we are aware of and can go after the tenants.

Therefore, we believe that with the proposed changes to the abovenoted act, by allowing the Ministry of Community and Social Services to make direct payments at the option of the clients, who are also tenants, to the housing authority and social housing providers, it will substantially reduce staff administration time in collecting monthly rents and chasing rents and maintenance arrears. Again, this should be at the option of the tenants and the clients, because it's not the majority of welfare recipients that are in arrears. It is a small percentage of people who are in arrears, that are constantly in arrears, and those are the people who we would think would benefit from this proposal.

This is very important, particularly when, as of January 1, 1998, social housing will become the responsibility of the municipalities. Streamlining of the property management administration will be important in order to improve the level of service to our tenants and the taxpayer.

The second proposal to the act, and probably the most important, is the free exchange of information while

maintaining client confidentiality between Comsoc and other government agencies, such as the housing authority. With the proposed ability of Comsoc entering into agreements to share and compare information with the housing authority staff, this would go a long way in preventing welfare fraud. As mentioned above, our staff deal with 13 different provincial and federal funding programs. You can appreciate the difficulty in keeping track of tenants and ensuring that they are not collecting from several sources. Unfortunately, when we find out about the double collecting, it has already occurred for several months.

Just recently, our board reviewed a case in which we believed that the tenant was collecting from more than one social income source. In this case, all our staff could do was advise the welfare officer of our suspicions. Subsequently, this person and partner had been independently collecting welfare and OSAP for five months. I believe there are similar cases of fraud in the system that can be prevented by this proactive change, especially with the municipalities taking over more responsibilities. It makes sense to have all the information at one source.

In addition, I recommend that the identification verification technologies may be shared with the housing authority and other partners, so that all agencies are communicating right from the start of the social assistance application process.

Also, with the new provisions regarding fraud prevention and control of making it possible to impose a period of ineligibility for people convicted of defrauding the system, it will make people think twice, especially if their family's tenancy is in jeopardy.

In conclusion, the proposed changes of the Social Assistance Reform Act regarding the more liberal exchange of information between ministries and government agencies will provide the local housing authorities and social housing providers the ability to collect rent on a timely and cost-effective method, and more importantly, become proactive in preventing the abuse of social assistance programs.

Thank you for this opportunity. Are there any questions?

The Chair: Thank you very much. There are always questions from this committee. We have just over four minutes per caucus.

Mr Carroll: Just a couple of quick questions. On the assignment issue, you're stating that you believe it should be the option of the tenants.

Mr Thompson: I had a brief discussion earlier before I came here. There is a small percentage of people — actually I should turn it around and be more positive. There is a large percentage of people who pay their rent on time. We're not looking at penalizing those people. But by giving a direct payment option, especially if the services are going to be more centralized in the municipalities and the money's coming from them, it makes sense to have that option there as well. My comment is on collecting arrears. As I mentioned, \$12,000 monthly is a fairly large sum. If we can add something that we can change that

around and take the arrears directly off the welfare income, that will save us time and money.

Mr Carroll: So you are suggesting a system that would allow those people who are responsible and pay their rent every month a choice of whether or not they want to pay or have it paid directly. What about those people who have exhibited consistently that the payment of their rent is not one of their priorities? How do you feel about the fact that in those particular cases there could be a third-party assignment?

Mr Thompson: What you're saying is people who are constantly in arrears —

Mr Carroll: They would not have an option. If you, as the manager of the housing authority, or whoever, could prove that the person you're renting to does not see the payment of their rent as one of the things that they must do every month and are constantly in arrears and in danger of being evicted, do you believe then that there should be some provision for the Ontario Works office to be able to say, "Okay, in those particular situations, we're not going to give the recipient the option; we're going to just pay the rent direct for them"?

Mr Thompson: That is an option, yes. Our staff are very fair, actually very liberal to people who are in arrears. It takes very extreme circumstances that we have to go to an eviction notice. We just had one case where the woman was getting direct payment into the system, then she got off it and she became in arrears for several months in a row. We suggested that she go back on it because it saved her a lot of problems. Obviously, if there's a consistent problem with arrears, then yes, there's that option.

Mr Carroll: Eviction isn't a good option, ever.

Mr Thompson: No. That's the last resort that we want to do. Our staff keep very good records of our clients. Again, like I say, they go to all lengths to prevent an eviction, but if it is a constant problem, then we have to go to that direct payment.

Mrs Papatello: You indicated 3.2% of your total number of tenants are at some point in some form of arrears.

Mr Thompson: That 3.2% is of the revenue; it's not of tenants. That represents about \$12,000 monthly of our revenue that is in arrears.

Mrs Papatello: Of what?

Mr Thompson: I'm not too sure of what the total revenue is, but it's approximately \$12,000 monthly.

Mrs Papatello: I too made a note here of the option. You indicated the option of tenants and clients choosing to pay third-party —

Mr Thompson: Yes.

Mrs Papatello: In this bill, Bill 142 that you are here to speak to, there are other items in the bill, things like notification going to tenants or individuals receiving assistance, that within a 30-day time period they have to jump in there and try to launch some level of internal review or whatever. The reality is, people will be getting cut off much sooner. In the end, the \$12,000 that you're currently in arrears is likely going to skyrocket because

those same individuals may be the ones who are not having any income at all and so aren't paying you at all. Then your eviction rates will go up. Any concerns? You didn't discuss that area.

Mr Thompson: I'm not totally familiar. I only commented on the areas that I'm familiar with. But you make a valid point. We have to treat it like any other property management system. Sure, if people are cut off sooner, then yes, there are going to be a lot more arrears, that's quite possible. How we address it, that's a good question. I don't have an answer for you on that.

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Mr Papatello: Do you have a waiting list at the moment?

Mr Thompson: We do, and all the other non-profit organizations. That's one of the things we're pretty excited about. Right now, like I said, there are 13 different programs and there are several different other social housing providers. What we're asking the government is to put them all into one pot, where you go to one source so that there is no confusion or misinformation being out there.

Mr Papatello: The North Bay mayor has been particularly vocal about the dumping of housing on to the municipality of North Bay. They're not in favour, because it represents a significant increase in cost to the town of North Bay, hence local property taxpayers will be paying now. What's your comment on that?

Mr Thompson: I disagree with the mayor. I believe, from the figures that we've been provided from the Ontario Housing Corp and from the Ministry of Municipal Affairs and Housing, and our staff, sure, the city is going to be responsible for the funding, and I may sound biased, but I think we have the best portfolio of social housing in Ontario. Last year our office saved over \$100,000 and maintained a lot of the services. I don't think it's going to be a problem to the city. I think our portfolio is very well run and the city is going to be taking over a very good asset, so I tend to disagree with the mayor on that.

Mr Kormos: I appreciate what you've said. You've said it very candidly and in quite a balanced way. You don't have any data to indicate that tenants whose income is other than social assistance, the percentage of tenants with non-social assistance-incomes, are any lesser inclined to be in arrears of rent, do you?

Mr Thompson: No. That's a good point. Basically what we are dealing with is the welfare, so all the figures I had were based on welfare recipients and social assistance. But that is a good point. It's not saying that people who aren't on social assistance aren't in arrears either.

Mr Kormos: The problem is that the folks I've talked to, once the social assistance rates were slashed by 21.6% — I guess they needed the money to fund the salary increases for MPPs at Queen's Park.

Mr Thompson: And pensions too.

Mr Kormos: And the pension buyouts, yes. Somebody suggested to me that maybe we could solve the whole welfare problem, Parliamentary Assistant, by buying out social assistance recipients in the province, the same way we bought out the pensions of MPPs. They told me they'd

be pleased with that option. Will the government consider that?

Mr Carroll: Mr Kormos, that would be up to you.

The Chair: Order, please.

Mr Kormos: The problem is that the provision that provides for direct payment to a landlord also provides for direct payment of basic needs, which I suppose could include the grocer, could include Consumers' Gas or hydro-electric. What happens at the end of the month — what I'm saying is, most of these folks tell me that you've got to rob from Peter to pay Paul. There ain't no such thing as meeting all of your needs with the budget under what's currently GWA.

I appreciate that you didn't specifically address this. I just wonder if you have any thoughts on, how do you balance out then? Who do you pay first, the landlord or the greengrocer?

Mr Thompson: That's a good point. You're absolutely right; food and children are more of a priority than paying rent in certain circumstances.

From a business point of view, obviously, rent is more important, but the staff at the housing authorities are human and certainly realize that. You also have to remember that we not only have to deal with 13 different sources of programs, we're also under the Landlord and Tenant Act. So our staff walk a very delicate line in trying to maintain all the services but also trying to run a business.

The Chair: Thank you very much for being here this morning and presenting your views. We really appreciate it.

NORTH BAY PRESBYTERY UNITED CHURCH OF CANADA

The Chair: North Bay Presbytery, United Church of Canada, Reverend Elizabeth Frazer. Welcome, Reverend Frazer. As you take your seat, you've been here for a while; I remind you, however, that you have 20 minutes for your presentation. I wonder, as you start, if you might present your copresenter for the record.

Rev Elizabeth Frazer: I will. I would like to introduce my colleagues. On my right is Reverend Jim Sinclair, who is pastor of St Andrew's United Church congregation here in downtown North Bay. To my left is Bill Allen, who is an active layperson in North Bay Presbytery and sits with me on the mission committee. Thank you for your time this morning.

My colleagues and I come before this committee today as representatives of North Bay Presbytery of the United Church of Canada. We are here because we believe the church exists for one reason: to proclaim the gospel, the good news, and to live it daily. We remember the good news that Christ spoke before his peers in a situation not unlike the one we are gathered at today, when he said: "He has sent me to heal the broken-hearted, to preach deliverance to the captives, the recovering of sight to the blind, and to set at liberty them that are bruised."

We are here this morning because we believe the truth of that statement is as relevant today as it was 2000 years ago. It reminds each one of us here this morning that the strength and integrity of any civilization, any society, is in its treatment of those on the margins. We believe Bill 142 stands in sharp contrast to this truth.

The United Church presence in this area comprises 26 congregations that extend west to Warren, south to Burk's Falls, east to Mattawa and north to Redbridge, within the province of Ontario, and in fact extends to Témiscaming in the province of Quebec. We live here, as many of us have discovered, because the values that uphold and make life worthwhile in this area are still deeply cherished among us.

I recently attended a meeting of people who came from the communities of Redbridge, Carmichael's Corners, Mattawa and Rutherglen. People came together to talk about the communities their particular churches serve and to talk about their hopes for the future. In each case these ordinary citizens of Ontario were clear about what mattered most to them. They identified the values of neighbourliness, of community, of being in a place where you are known by name and valued, regardless of personal circumstances.

As a parish minister who served the communities of Warren and Sturgeon Falls for three years, I witnessed and experienced the same kind of communal concern for neighbours. The survival of any community, I say to you today, depends on this mutual support. Communities die when neighbours don't matter any more.

In my three years of congregational ministry in northern Ontario, I have also witnessed another reality: cuts to government services; a 21% cut to social assistance recipients' income; longer waits for medical procedures; endless waits for rent-geared-to-income housing, counseling for troubled youth, placement in local seniors long-term care facilities. Demands on our local food banks have doubled in the past two years. Young people leave northern communities continuously to look for jobs in the south or in other provinces. Our communities are bearing the destabilizing impact of this reality.

Community supports in northern Ontario have always been hard to access, partly through lack of availability but also the distance to access service. Families in crisis have fewer options and fewer resources available in northern Ontario to assist in times of need. If you are unemployed and living in River Valley, you will need transportation to Sturgeon Falls to access the nearest employment centre, a distance of 100 kilometres round trip. Churches, service groups, friends and neighbours can't begin to respond to the extent and numbers of requests for help that exist in our northern communities.

The levels of poverty in small northern Ontario communities can't be hidden. Drive along the back road between Warren and River Valley or Lakeshore Drive in North Bay. George lives in the bush between Warren and Field without electricity or running water.

There was hardly a week that someone didn't come to my door in Sturgeon Falls requesting help for the bare

necessities of life: food, clothing and shelter. These were not just strangers passing through town, although that happened frequently, but these were people rooted in the community to which I belonged.

Bill 142: There is so much that is objectionable about this bill. This piece of legislation is fundamentally flawed. I see my neighbours for whom life is already close to unbearable pass before me, and this piece of legislation will make life even more difficult. This is wrong.

This bill is mean-spirited. It robs people in difficult circumstances of the little bit of dignity left to them by this government. It is punitive in intent and based on the crass assumption that the ends justify the means, that deficits are all that matter to us. It presumes that the values of compassion and neighbourliness, of community and interdependence are no longer the values that the people of Ontario uphold. We believe this is false.

The new system envisioned and implemented by the first part of Bill 142, the Ontario Works Act, is one in which the onus is on the individual to achieve self-reliance through employment or suffer the dire consequences of being unsuccessful.

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With the overwhelming emphasis and direction on employment and self-sufficiency, the new act leaves little space for either government responsibility or community support. We are defined only as individuals, each with our own responsibility to look after ourselves. We believe that this is the false premise on which the entire bill is fashioned and it makes it fundamentally unacceptable as a piece of legislation for the people of Ontario. It presumes that we live in some kind of splendid isolation, one from another, that you and I are no longer accountable or responsible for the plight of our neighbours.

Only a decade ago a provincial government commission, in producing the definitive Transitions report in 1988, affirmed the purpose of social assistance this way: "All people in Ontario are entitled to an equal assurance of life's opportunities in a society that is based on fairness, shared responsibility and personal dignity for all."

This was to be the guiding purpose of new social assistance legislation, and on all counts Bill 142 moves away from this goal. It creates a system that further entrenches poverty, reduces what meagre help is now there and places so great a burden on those already impoverished that they are unlikely to ever rejoin the mainstream of our society.

In this presentation this morning, I want to draw on my experience of how Bill 142 will impact on the lives of people known to me personally in the practice of parish ministry. I have altered names and circumstances slightly to preserve anonymity.

Bill 142 allows for liens on property, commitment to repayment from future earnings and responsibility for the indebtedness of ex-spouses and thus it creates, I suggest to you, a financial trap from which many will never recover.

Leo and Jane moved to northern Ontario in the early 1990s. Leo lost his job in southern Ontario in the manufacturing sector. As many of you know, many manufacturing jobs were lost during this time. They came to

northern Ontario and, on the advice of a neighbour, Leo got part-time employment in the local lumber industry.

Two years ago, in 1995, the sawmill that he was working at part-time burned to the ground. They own their own home. Both he and his wife have gone back to school to complete their high school in hopes that it would make their employability greater. It has not. If this legislation goes through, they risk losing the one piece of security that gives their life stability, their home. I suggest to you that in circumstances that would bring any one of us to our knees, in spite of this, there is still hope among this family.

Bill 142 will bankrupt this couple. Placing liens on their home for future repayment of any social assistance they receive while remaining unemployed or unable to comply with Ontario Works regulations will remove what little incentive there might be to try to relocate in another community. Practically every house in the community they live in is for sale. A lifetime of hard work will be wiped away by this callous piece of legislation. This is wrong.

It is wrong because it fails to recognize the lack of alternatives when hard times come to us. Many employed Ontarians are one paycheque away from Leo and Jane's situation. Can you put yourself in their place, if only for a moment, and try to imagine the fear, the despair, the oppressive weight of knowing that you are about to lose the one thing that gives your life any stability, your home? Collectively, are we ready to impose this kind of additional hardship on people already marginalized?

For the first time in Ontario since the introduction of the Ontario mother's allowance program in 1920, single mothers will face mandatory employment requirements as a condition of receiving financial assistance. As a result, women in Ontario, many of whom face major dislocations at some time in their lives due to marriage breakdown, domestic violence, job losses, are losing social protections and a form of economic security they may never have known they possessed.

Young dependants will also be seriously affected by the new requirements and restrictions placed on their parents' eligibility. This, we suggest, is wrong.

While Ontario Works will impose a mandatory employment requirement on sole-support parents, there is no corresponding legal obligation on the government to assure access to quality child care. The current waiting list for subsidized day care in North Bay is 55 as of September 19 and additional requests are received daily. Clearly, the need for affordable, quality child care will far outstrip present availability in any work-for-welfare program.

Welfare moms already receive harsh condemnation in our society. Single, sole-support women are scapegoated and labelled, with little appreciation of the difficulties of raising children on meagre incomes, with few family and community supports.

In a 1996 study — and I've attached this as an appendix: *Is Eating Well Affordable in North Bay?* researched by the North Bay and District Health Unit — the question of whether it is possible to provide the basic necessities of life — food, clothing and shelter — in North Bay for low-income families is answered with a resounding no. Not

only are the incomes of women receiving mother's allowance inadequate, but also incomes of families earning minimum wage are inadequate to meet the costs of affordable housing, food and clothing needed to survive in North Bay.

Bill 142 will make life harder. Ontario Works, the welfare-for-work foundation of the bill, punishes single mothers. Ontario Works effectively transforms social assistance into a loan program with its many provisions for benefits recovery, further marginalizing families who are already at risk. Such measures would set families back financially, effectively imposing a debt once a mother is about to leave the system. This doesn't begin to address the hardship if the three-month sanction were imposed where it is deemed that a recipient has failed to carry out employment requirements to the satisfaction of the administrator; six months for a second or repeated occurrence.

Particularly onerous, in our view, is the provision that a recipient who loses her appeal of a decision to suspend, deny or terminate benefits at the appeals tribunal will be required to repay any interim assistance she has received while awaiting the outcome of the dispute. Effectively, this will act as a powerful deterrent to undertake appeals and will create a significant debt load for those who persevere, but who are unsuccessful.

This is taking food out of the mouths of children and effectively putting the health of adults and children in jeopardy; this, in a community where the district health unit has already concluded that families living on social assistance and those earning minimum wage have great difficulty in affording the food necessary to stay healthy.

Nor is it clear that special benefits contained in the current legislation will continue under Bill 142, such as back-to-school allowance, winter clothing benefit, community startup, employment startup, drug coverage, transportation for medical appointments. Again, if these benefits are withdrawn, hardship is compounded as each cent is withdrawn from already inadequate budgets.

I think about Pat, a sole-support parent of three-year-old Laura, living on mother's allowance in North Bay, graduated with a bachelor of social work two years ago and unable to find employment in her field, volunteering at social service agencies and hoping that she would gain employment. She hasn't. There's nothing to fall back on if benefits are ever withdrawn for whatever reason. Minimum-wage work will not pay the costs of child care and the basic necessities of life living here in North Bay. The spectre of homelessness for herself and her child is very real.

I'm thinking about Karen, who has taken the risk of returning to school and upgrading her skills to become an RNA. OSAP has provided her with a \$20,000 loan to complete her 1997 academic year, and she will need another loan to complete her two-year course. Estimated indebtedness at the end of two years: \$40,000. If Karen is unable to find employment very soon after her course is completed, she will have no choice but to return to social assistance to meet her basic needs for herself and her

child. Compound a \$40,000 student loan with the punitive nature of the Ontario Works program: I see a prescription for disaster for her child and herself.

As you can see, we are skimming the surface of this bill in this presentation. We haven't mentioned the Ontario Disability Support Program Act component of Bill 142, with its vague definition of disability. We haven't addressed the whole question about the absence of the regulations that would provide the details of this bill. For example, the cut-off age of the youngest child in the families of sole-support parents requiring their participation in Ontario Works: Is it six years or six months? Does the government plan to make up the rules as they go along? How can there be public accountability when there is no public debate? This is wrong.

We haven't addressed in enough detail the economic realities of northern Ontario. It is estimated that over 800 jobs have disappeared in the public sector alone in North Bay and area in the past two years. The economic blow to this community with the loss of that number of jobs is difficult to calculate, but other economic indicators would lead us to believe it is considerable.

We haven't addressed the concerns we have about the move to privatize the administration of Ontario's welfare system. We believe profit from welfare is morally unacceptable. We haven't discussed the criminalization of welfare recipients that will result from this legislation. Where I come from, organic, biodegradable fertilizer is still bullshit no matter what you call it. Encrypted biometric information is still fingerprinting by another name.

1130

The church has been asked by the government, along with families, neighbours and other organizations, to become more involved in caring for the poor. The fact is, the church has been doing so all along, but we believe charitable handouts are not the answer to Ontario's problems. For generations the church has actively sought the kind of systemic justice that creates a more egalitarian society and we object to portraying persons on welfare as "they." Demonizing any group or legislating them out of existence by describing them as frauds is wrong. Studies indicate that welfare abuse ranges no higher than 3% and is more likely around 1%. The real fraud is when the image of the poor is misrepresented and a type of economic cleansing is encouraged by the type of legislation we now have before us. On the other hand, little has been said about tax fraud in this province except for Premier Harris's statement at the beginning of his government's mandate that cheating on one's income tax is just human nature.

In December 1995 the moderator of the United Church of Canada at the time, Marion Best, was harshly criticized when in her pastoral letter to the church she called a stop to "the growing war against the poor in our society." The church, we were told, had no business making such a bold political statement. How strange that we, who are asked to care for the poor, are not to comment when the rest of society fails to live up to its responsibility to do likewise.

My colleague beside me has handed me this this morning. In our general council meeting this past year in Camrose, Alberta, the 36th general council declared:

"By giving the minister discretionary power to exclude classes of persons from receiving social assistance, Bill 142 cannot be tolerated by a person of faith. To exclude anyone from community and to judge them as being unworthy of being cared for is to usurp the authority of the creator, because caring for our neighbours is fundamental to faithful Christian witness. The 36th general council of the United Church of Canada is encouraging all its mission units and pastoral charges to refuse to participate in employment or work programs that force social assistance recipients to participate as a condition of receiving welfare. Bill 142 is such a dramatic fundamental change to our practice of social assistance that it is clear that its proposed implications go beyond the bounds of economic grace. It is not a document which offers care to the needy or the marginalized. It is inconsistent with the tradition of faith. It is immoral."

There is an oft-told tale that begins this way: A certain man went down from Jerusalem to Jericho and fell among thieves. The story is told in response to a question, "And who is my neighbour?" Those of you familiar with this story recognize the parable of the good Samaritan. Those with the power to help the man who fell among thieves passed by on the other side. We can just imagine the excuses: "He shouldn't have walked along this road alone," "He got what he asked for," "He made a bad choice and now he'll have to suffer the consequences," "He's responsible for his fate," "He's just a poor man." Along comes the Samaritan, the unlikely to have compassion, who does not pass by on the other side. The story is told as an invitation: Don't ask who is your neighbour; rather, here is how to be one. Go and do likewise.

What we need in this province and for this particular piece of legislation is a transformation. The strength and viability of our society won't in the long run be measured by how we deal with deficits but how we respond to human need. The power to recommend changes in Bill 142 in order to respond to the concerns we have articulated about this bill rests in your power here today. We urge you by all the goodness that we are capable of as neighbours one of another, do not pass by on the other side.

We thank you for your attention.

The Chair: Reverend Frazer, on behalf of the committee, I want to thank you for your powerful and articulate presentation this morning. Regrettably, you have exhausted all of your time. I'm sure there would have been lots of questions. I want to thank your two colleagues as well for joining you.

NEORAD, Joanne Nother?

JIM WESTBROOK
ON BEHALF OF BOB FETTERLY

The Chair: Bob Fetterly? Mr Fetterly, thank you for being with us this morning. I should state for the record

that there is consensus among the three caucuses to have you make your presentation. I understand there was some mixup with your appearing. We're very glad to have you here in any event. You have 20 minutes.

Mr Jim Westbrook: Thank you for welcoming me, but I'm not Mr Fetterly. I am Mr Fetterly's neighbour and I'm making this presentation on his behalf. My name is Jim Westbrook and I'd like to welcome the honourable Chair and the honourable members.

This is a letter written by Bob Fetterly.

"To the government of Ontario:

"I am presently drawing a disability pension from the province of Ontario as well as receiving income from the Canada pension plan. I am here today," on Bob's behalf, "to bring to your attention what I feel is a gross injustice to the disabled of this province. When I was placed on the family benefits program, I had to use up all my savings and abide by the rules of the rights and responsibilities of this program, as well as trying to live at a poverty-level income.

"Knowing that welfare and disabled individuals are under the same criteria, I cannot help but think this is totally unfair. Being disabled is a health problem, not a lack of a job problem. I can sympathize with the government when they say welfare must not be a source of living but a holdover until work is found. However, for the permanently disabled it must be a source of living for as long as they are unable to work.

"It is for this reason that I stress to the government the importance of placing the disabled under their own separate entity; giving them their own criteria on income and assets so they can live comfortably while allowing them to keep their investments and life savings. Someone may say, 'But why should we as taxpayers give the disabled a comfortable living and allow them to maintain their home at our expense?' I would answer that question with this analogy. If someone is receiving dialysis all his life because of a kidney disease he is not expected to sell all his accumulated assets and use up all his savings to cover the cost and live in poverty the rest of his life. Why? Because it's a health problem and it's paid for by the taxpayers of this province. So why must a person who is disabled because of a health problem be expected to use up all he or she has worked for so he or she can get assistance from the provincial government which I might add is below the poverty level?

"The government spends billions every year on people who deliberately abuse their health by smoking, irresponsibly drinking and using drugs and no one seems to mind. All one has to do is go to the entrance of any hospital and see the various patients who smoke standing outside puffing away. Look at the many heart patients who refuse to quit smoking after thousands of dollars have been spent for major heart surgery on them and no one seems to mind. So I ask you, why should the disabled be expected to abide by the same strict guidelines that are in the rights and responsibilities family benefits program; the same guidelines that are also laid out for welfare recipients?

Why should the disabled be subjected to the same rules as welfare recipients?

"I would like to make one final statement before closing. Canadians have a universal health care system so that if an accident or an illness strikes them in life they will not have to give up all their assets, their home and their life savings while forcing them to live on poverty's doorstep. So why should those individuals who become disabled through no fault of their own be expected to do just that? It should be remembered that any one of us here today could become disabled any second of our life due to an accident, illness, or disease. Would you like to lose almost everything you have worked for and remain at poverty level the rest of your life because of your misfortune? It is for these reasons, as a disabled person, that I strongly stress to the government the need for the disabled to be separated from the welfare system and placed under their own guidelines.

"Thank you,

"Bob Fetterly."

The Chair: Thank you very much, Mr Westbrook, for appearing here on behalf of Mr Fetterly. Please assure him that this will form part of the official proceedings.

NEORAD, Joanne Nother, president. Is Ms Nother here?

Mr Kormos: Chair, it's approximately 11:41, 11:42. Perhaps we could recess for five minutes. She could well merely be late.

The Chair: I'd be happy to entertain a motion to recess for five minutes.

Mr Kormos: Unanimous consent.

The Chair: Terrific. We'll recess for five minutes.

The committee recessed from 1141 to 1149.

The Chair: I'd like to call one more time for NEORAD, Joanne Nother, president. Is Ms Nother in the room? Very well, then, the hearings are recessed until 1:30 this afternoon.

The committee recessed from 1150 to 1322.

NORTHEASTERN ONTARIO REGIONAL ALLIANCE FOR THE DISABLED

The Chair: Good afternoon. We begin this session with NEORAD, Joanne Nother, president. Welcome. You have 20 minutes for your presentation, Ms Nother. If there is any time for questioning after your presentation, we'll take the time up.

Ms Joanne Nother: I don't think I'll be 20 minutes, so there'll probably be time if you have questions.

I thank you for the opportunity to present a little later. We were to be here at 20 to 12, but we drove in from Sudbury, and we had a little problem finding the place. Anyway, my name is Joanne Nother, and I am the chair of NEORAD, which is the NorthEastern Ontario Regional Alliance for the Disabled, formerly known as PUSH Northeast. We are a group of individuals with disabilities, all kinds of disabilities. Our office is in Sudbury, but we have members throughout northeastern Ontario. Our members have all kinds of disabilities, from visible ones, like myself, to invisible ones, such as people who are deaf.

I will address some concerns we have with Bill 142 that will greatly impact our quality of life. Our concerns deal with two major aspects of this bill: (1) the definition of disability and (2) the supports to employment program.

The definition of disability in this bill causes us a little bit of distress. Clause 4(1)(b) reads, "The direct and cumulative effect of the impairment on the person's ability to attend to his or her personal care, function in the community and function in a workplace, results in a substantial restriction in activities of daily living."

Our worry is that the word "direct" will be used to exclude people for whom the impact of their disability is exacerbated by various socioeconomic or sociological factors, ie, age, poverty, illiteracy, lack of education. A segment of the disabled community falls between the cracks in this way. With the appropriate tools and supports, these people can function well, but without them they will just be set up for failure. They won't fit into workfare programs. They will need the benefits of being on the proposed disability support program.

Another fear we have is that since this subsection uses the word "and" rather than "or" to refer to the three areas of functional limitation, being personal care, functioning in the community and functioning in the workplace, it appears that individuals will have to show a substantial restriction in all three areas in order to qualify. We are worried that this interpretation will significantly restrict the eligibility of persons with disabilities to receive the disability support income. We trust that the government will keep the spirit of the remainder of the legislation in good faith to the community of persons for whom the revised law is to benefit, persons with disabilities.

Our second interest in the legislation lies with the provision of employment supports for persons with disabilities and vocational rehabilitation. Everyone knows how important it is to be employed, not only because money earned pays for your basic needs and wants, but because the job becomes how you identify yourself as an individual. Your self-esteem and your confidence are all tied into how productive you are in the labour force. A lot of that validation is an internal feeling of self-worth: Are you doing something worthwhile? Are you being paid a fair wage for the work performed? In this respect, both the able-bodied and persons with disabilities feel the same. The only difference is that the person with a disability may need extra help to get out into the workforce, that is, if you can convince an employer to hire them.

It is universally understood that everyone has skills. The difficulty comes in creating ways to best utilize individual skills. The NorthEastern Ontario Regional Alliance for the Disabled has been instrumental in creating a company called Abilities Unlimited, a not-for-profit company which will operate a foodservice business to begin with, with a training and job placement component that will be comprised solely of and service only persons with disabilities. We have secured the cafeteria of the trades building at Cambrian College in Sudbury as of January 1998 and will be training approximately 10 students to provide the foodservice in the facility for around 1,000

students and faculty. These students, once trained, will go on to other foodservice employment in the city or be employed with Abilities Unlimited in one of its business ventures. There will be continuous intake of students throughout the year and a variety of training programs will be offered.

The company has a written letter of intent which states that it will be contracted as the foodservice provider for the new YMCA Centre for Life, which will be constructed in Sudbury by fall 1998. That initiative will include a cafeteria, a full-service restaurant and foodservice for a regional day care centre.

The company will be staffed, from the CEO to the person in the kitchen chopping vegetables, by persons with disabilities. These people will have a multitude of disabilities: Some will have physical disabilities, some will be psychiatric survivors, some will have developmental disabilities and some will be injured workers who, because of their disabilities, can't go back to their regular jobs.

The company will be governed by a community board of directors consisting of key members in the community and consumers. Everyone will share a willingness to work and a willingness to learn something new. The basic philosophy governing the business is, "Real pay for real work." The jobs will have to be tailored to the people who can fill them, not the people fit to the jobs. We've all had our fill of sheltered workshops and we're tired of them. We've found that people previously labelled "permanently unemployable" are gainfully employable given the right supports and services.

This business will be unique because it is a cross-disability initiative. It will work because it has the force of will and determination of a marginalized population who generally don't get mainstream employment.

The company was created as a result of a partnership between the Alliance, the DisAbleD Women's Network of Ontario and the Ontario Council of Alternative Businesses, OCAB, after the psychiatric survivor model of consumer-run businesses. We have countless examples of people who have been through the system, failed and are demoralized because of the process. We hope to be able to turn many of these people back into success stories by restoring their sense of self-worth. Since this is the first time a business like this has been attempted anywhere, we expect to share our triumphs and failures with others to make the same thing happen again somewhere else. This business and all aspects of it will become a system of employment support to persons with disabilities. It will offer training, job placement and employment.

1330

There are two disincentives that exist and will remain with the new legislation regarding employment unless they are addressed. They are the issues of the allowable earnings limit, and of course the drug card. We all know that not every person with a disability is going to be able to hold down a full-time, 40-hour a week job. The earnings limit of the legislation needs to be bumped higher to encourage people not to be so reliant on the system. It is

discouraging to work, only to know your cheque will be reduced dollar for dollar once you exceed the limit.

The other concern is that of the drug card. For the most part, people with disabilities have much higher than average prescription drug costs. I have multiple sclerosis and use a drug called Betaseron, a drug I must inject every second day. It costs me \$2,000 a month. I couldn't afford to work if someone weren't paying my drug costs. That's the way it is for most people with disabilities. Since they have a disability, an insurer looks at it as a pre-existing condition and won't allow them enrolment in a company medical plan if they have been so lucky as to get a mainstream job. So where is the incentive to work?

Our position is that people with disabilities should be allowed to keep their drug cards if the cost of their medications becomes a hardship to them financially. There is much necessity for them to work if they are able to, for as long they can. It is a large barrier to employment for many persons with disabilities and will create an incentive to work for many if they could keep the card.

We look forward to changes in the provision of vocational rehabilitation. We hope privatization will eliminate or at least decrease the current waiting lists. The waiting time locally was two years, but now it has been reduced to 18 months. The Sudbury VRS office is very proud of the reduction, but 18 months is still a very long time to wait when you are in need of deemed non-emergent services. One concern we have with privatization, particularly in a smaller northern community where there isn't a not-for-profit organization that can provide responsible service coordination, is that the service coordinator comes from the for-profit sector, creating much conflict among the service providers and the consumers.

We are, as always, afraid that without an influx of new dollars, the waiting will continue. We are also saddened to see the removal of assistance with homemaking from the disability support program, as it is covered by the Vocational Rehabilitation Services Act currently.

Recognizing that not every person with a disability will be able to or want to be employed, there must be a process in place to address the needs of these people.

Poverty is a big factor in the disability community; many live in it, many want to escape it. The provisions of this new legislation will introduce new supports which will hopefully allow for economic developments like Abilities Unlimited to flourish and persons with disabilities to find and keep work if they so choose, thereby getting a step up in the fight against poverty.

Thank you very much for your time in allowing me to make this presentation and the consideration you will use to peruse its contents.

The Chair: Thank you. We have two minutes per caucus for questions. We begin with the official opposition.

Mrs Papatello: Thank you for coming to visit us today from Sudbury. I'm sorry that the committee was not allowed to attend places like Thunder Bay and Sudbury, causing this kind of hardship for individuals.

You talked about the business, which is quite interesting, because it will allow opportunity for people who may

not have had them before. Under this new enhanced verification of their disability, how will someone like — we heard earlier this morning a woman who one week was considered legally blind and who now, under enhanced verification, is no longer eligible for disability benefits. Would someone like that be allowed into your business program, or will you be working with people who actually fit into the new disability act? Are the people who are marginalized, who are not going to "make the grade," that is, aren't disabled enough, going to have access to your business?

Ms Nother: The basic qualifier for admission into Abilities Unlimited, as we have stated, is just that there must be an identification of a disability. We ask for self-identification. We could be working with someone with severe learning disabilities. Due to our consideration of whether it effects the way they conduct their daily lives, that may be a serious enough factor.

Mrs Papatello: You mentioned too that you're hoping the privatization of voc rehab will improve the waiting list. How do you think that will happen?

Ms Nother: What you have to do is add more money into the program, and then hopefully we can address the numbers of people who are in the program waiting for service from voc rehab. That's how the numbers will be reduced: if you can increase staff, increase the service to the numbers.

Mr Kormos: Thank you kindly. You travelled from Sudbury, as other people have travelled from as far away as Thunder Bay and I believe Peterborough.

I'm troubled by subsection 4(2), the exclusion of persons with disabilities. One can think of a million and one scenarios. If I'm an adolescent glue sniffer, gasoline sniffer — tragically, it's a common phenomenon among youth in this province — and suffer brain injury, which isn't an uncommon consequence, and then subsequently as an adult I'm not a glue sniffer or gasoline sniffer, I'm not entitled to any of the income supports or, even more tragically, to the employment supports, although I'm as bona fide and legitimately brain-damaged as is a person who suffers a fall or what have you. Is there any way, in your mind, that you can justify that subsection (2) exclusion?

Ms Nother: With regard to the exclusion, our concern is that the disability — we don't want to go back to a medical model of defining what the disability should be, but if the disability is as a result of, say, a drug addiction or something that has happened and it is considered a bona fide disability because of what has happened, then it is a disability, regardless. If it is a result of whatever, it should still be considered a disability.

Mr Kormos: I was a little excited by the employment supports provisions, part III, because I thought people like my friend Gary Malkowski, for instance, who was an MPP, who needs a signer to deal with non-deaf people like me — he needs an interpreter. I thought section 32 could be a section whereby other deaf people are provided with signers. That's an expensive proposition, but if we're going to be fair to those people, it's the only way they're going to have access to many workplaces.

But then I see "the prescribed employment supports." When I look on further, of course there are powers in the bill for the Lieutenant Governor in Council to make regs saying which employment supports cannot be provided and which are the prescribed ones, without defining how that's going to be determined. So there really are no rights here for persons with disabilities, because it's all subject to the fickle determination of a closed-door cabinet meeting. Does that bother you?

Ms Nother: It does. I'm sure you're aware of the fight the hearing society and deaf people have had with regard to hospitals and having interpretation services offered in the hospitals. We've had a problem in Sudbury as well. In the sexual assault clinic, there was a demand for interpretive services for a woman who was deaf, and what the hospital was doing was not providing interpretation services from, say, the CHS and getting a qualified interpreter; they were pulling in staff who worked in the cafeteria who signed for family members. That isn't the same level of service. It was up then to the interpretation of the hospital in terms of what level of service was needed. There was no qualification.

You're right, that could be a problem if it isn't prescribed. The big consternation, particularly for hearing-impaired and deaf people, is that if you don't have a qualified interpreter, the job doesn't get done. It does have to be prescribed specifically.

1340

Mr Carroll: Thank you, Ms Nother. First of all, your concern about the definition is a valid concern. Many people have expressed it. The minister has assured us that that problem with the interpretation of the definition will be corrected, because "or" is the proper thing between the three of those.

Congratulations on your initiative in Sudbury. It sounds exciting. It's great to see people taking it upon themselves to do some things.

Let me talk to you a little about the vocational rehab or the employment supports, because it is an important area, and one of the differences we see between the old plan and the new plan. As you said, in Sudbury there's 18 months waiting time currently. They're pretty proud of having reduced it to 18 months, but it's still unacceptable at 18 months. One of the ways we are going to shorten the queue is that there is going to be substantially more money available for it, so that will help to shorten the queue.

On the drug issue, just so you're not concerned about that, if somebody has a serious situation that requires a very expensive drug, the cost of that drug and the necessity of that drug will be one of the considerations in the assessment process to determine eligibility for the program. We're not about to throw somebody off the program because their income gets to a level and abandon the fact that they need support for expensive drugs. We are intent on doing what is right for persons with disabilities, and I think you will see that as the plan unfolds.

Ms Nother: That's good. I'm sure we will be watching that, because that is a big concern, particularly also for people who are HIV-positive or who have AIDS or what-

ever and are facing phenomenal costs who would like to get out and do something but are prohibited because of the cost.

The Chair: Thank you very much, Ms Nother, for being here today. I know it's an awfully long way to come for 20 minutes, but we appreciate what you have brought to us.

Mr Kormos: Chair, if I may while the next presenter takes her place, I'm sure the out-of-town participants have been advised about submitting receipts for travel costs, for food costs and other incidentals. Have they been advised of that?

The Chair: I have approved a number of requests. I believe we have honoured all the requests we have gotten so far.

Mr Kormos: Super. Just as long as they know that food and incidentals and so on are included.

The Chair: Yes.

THUNDER BAY COALITION AGAINST POVERTY

The Chair: I now call the Thunder Bay Coalition Against Poverty, Christine Mather. Welcome.

Ms Christine Mather: The Thunder Bay Coalition Against Poverty is a non-profit organization comprised of people concerned about the severity, extent and causes of poverty in our society. One of our primary activities is the operation of a food bank, at which we serve from 200 to 400 people every two weeks. Approximately 40% of these people are children. It is from our contact with the people who use our food bank and our knowledge of their living circumstances that our concerns with Bill 142, the Social Assistance Reform Act, arise.

Before continuing into the written part of my presentation, there are a couple of points I want to make in terms of what I've been hearing so far today. We seem to be hearing a lot of reassurances from the government side: "Oh, well, that's going to be changed," and "Oh, well, this is going to be changed." I think one of the major flaws of my presentation is that it isn't substantive enough, and the reason it isn't substantive enough is that the regulations haven't been issued. I get a little bit cynical when I hear the government saying, "This will be changed," but there is nothing in writing.

If you think about social assistance, when a person is on social assistance, the regulations govern every aspect of their life. Those regulations are of primary concern. I always thought the point of public hearings was to get input into legislation, to make the legislation the best piece of legislation it could be. Not having the regulations here, I can think of only three reasons why that might be. One might be that the government isn't interested in expert opinions on the regulations, another might be that the government is moving too quickly and doesn't have the regulations ready, and the third is that the government made a big mistake. Not one of those three reasons gives me a lot of confidence in the process this government is using.

Having said that, our concerns about the bill fall into eight categories. The first one is philosophy, and we have five points to make under this heading.

(1) Bill 142 represents a major shift in the philosophy underlying the provision of social assistance in Ontario. It is a shift away from a system which recognizes society's responsibility — we use that word "responsibility" purposefully — to provide for the disadvantaged towards a system with an overwhelming emphasis on self-reliance, the detection of fraud and the creation of a free labour force.

(2) This shift in philosophy ignores the extensive collaborative research done by previous administrations, including Transitions, Back on Track, Time for Action. All these documents suggested that social assistance reform was really necessary, but they all outlined reforms going in the opposite direction to those contained in the bill we're considering today.

(3) It is a philosophy which is contrary to the professional codes of ethics of the Canadian Association of Social Workers and the Ontario Association of Social Workers.

(4) It is a philosophy which designates the recipients of social assistance as being of lower status than other Ontarians: people with fewer rights, people who are a drain on the system. Specifically, clause 1(d) mentions that the purpose of the bill is to be accountable to taxpayers. Perhaps it is news to the government, but people on social assistance are taxpayers and this bill is in no way accountable to them.

(5) It is a philosophy which breaks the International Covenant on Economic, Social and Cultural Rights, 1976, which safeguards the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts. We would remind the government that Ontario is a state party to the covenant.

The next thing we are concerned about is the appeal process. I was really pleased to have an informal conversation with Mr Preston on one of the breaks, who says the appeal process is one of the things he is concerned about too. I really hope he has success communicating that to his caucus colleagues.

We have two specific points to make under this heading, but we wish to preface our remarks by reminding the government that people in receipt of social assistance often have little access to legal counsel and few of the skills necessary to interact successfully with bureaucracies. We believe that any government has at least a moral responsibility to ensure that such people are protected from arbitrary or incorrect decisions.

(1) As a social worker with over 14 years' experience, I can tell you that social workers make mistakes daily. It is irresponsible to allow social workers the power to make decisions about clients' incomes without allowing clients recourse to appeal those decisions. We refer here specifically to the lack of appeal provisions contained in subsection 26(2), paragraphs 1 through 8. The government is giving too much power to my profession.

(2) Roberta Jamieson, the Ombudsman, has also pointed out that the bill may deny people recourse to her office. We reinforce her warning that it is necessary that for-profit delivery agents be declared governmental organizations for the purposes of the Ombudsman Act.

Workfare: We have many concerns about the imposition of workfare in Ontario. However, we're convinced that you're going to pursue workfare, so rather than spending a lot of time on it today, we have appended a document to this presentation, which we delivered in Thunder Bay on the topic of workfare. We do wish to add two points to that document, because at the time of its writing, the government had not brought forth its plan to force people over 60 on to workfare. This is reprehensible and unrealistic. We echo the concerns of the Ontario Coalition of Senior Citizens' Organizations in its publication, Bill 142: Seniors At Risk. Also, we are appalled that through section 73, workfare victims could be denied any of the rights available through legislation to all other workers in the province.

Eligibility requirements: We have five points to make under this heading.

(1) It is of course reasonable to require people requesting assistance to provide some proof of eligibility. However, this bill goes much further than necessary and will inevitably lead to arbitrary and unjust denials of assistance.

(2) The bill refers not only to the information necessary to determine eligibility but also to the verification of this information and the form in which it is to be provided. That's a crucial distinction.

(3) Often, the people with whom we come into contact simply cannot procure a particular document. Almost all forms of ID cost money and may take weeks to obtain. The cost of producing such commonly demanded information as proof of separation or proof of paternity is far beyond the economic capacity of almost anyone on social assistance.

(4) People who live in unsafe housing, who move frequently or who may have fled an abusive relationship with nothing often lose ID. Under Bill 142, workers will have to deny benefits to people who cannot provide the specific piece of paper. The bill allows no discretion.

1350

I'd like to digress here and tell the committee my own experiences concerning eligibility requirements. In 1978, I was a recent immigrant to Canada with a very violent spouse, a grade 10 education and three children under the age of seven. My abusive spouse deserted myself and the kids and I began proceedings for a divorce. He returned home, beat me up and held a gun to my head. I managed to flee the house with the children and I applied for what was then called mother's allowance. Despite the fact that my husband had either destroyed or removed all the children's and my identification papers, including immigration records, birth certificates, marriage certificate, social insurance card, insurance documents, bank book, everything, that was a kinder, saner era and no benefits were denied to me because of my lack of papers. In fact, the

worker at Thunder Bay social services helped me to get copies of the documentation I'd lost.

In my approximately 10 years of work with other abused women, I have found that it is by no means unusual for abusive spouses to deliberately destroy documents. This is particularly true for immigrant women whose spouses have control of their immigration records.

(5) What is the result of denying benefits because the correct documents cannot be immediately produced? The applicant and his/her dependants do not miraculously disappear. The problem of their need is not solved. They will wind up at the food bank we run and at shelters for the homeless. We've seen a 67% increase of people coming to our food bank over the last 12 months. When this bill comes in, if these eligibility requirements aren't changed, there's going to be another increase.

I spend 60 hours a week trying to find money for that food bank. What do I do with the extra people? Do I put them on a bus, bring them down to the Legislature and say, "Here you are, Conservative caucus, you take these guys to the legislative cafeteria and you feed them"? I tell you, when the NDP were in, I watched them just as hard.

Third-party payments and trusteeships: We have two points to make under this heading:

(1) Both the OWA and the ODSP allow trustees to be appointed for recipients. Sometimes that can be helpful, but we feel the bill must be amended to provide for accountability on the part of the trustee and for the right of appeal of the decision to appoint a trustee. The bill should require administrators to take particular care that a person who has previously been abusive to the recipient isn't placed in the position of trustee.

(2) The bill allows for payments to be made directly to third parties. In our opinion, there are pros and cons to such arrangements. We have had members of our coalition who have benefited from third-party payments. In Thunder Bay, sometimes oil delivery companies aren't willing to fill a social assistance recipient's oil tank without the money in full, up front. We've been able to negotiate with city social services to guarantee monthly payments, and that's worked very well.

The thing is that those arrangements are made with the consent of the recipient. Bill 142 allows third-party payments without the consent of the recipient. This causes us concern for our members who live in properties owned by slum landlords. The only bargaining power these people have to use against abusive or negligent landlords is the withholding of part or all of their rent. Bill 142 takes that tiny amount of power away from them and then, to add insult to injury, makes the decision not appealable.

Recovery of assistance: There are occasions, such as in genuine cases of fraud, when the recovery of assistance is reasonable. Bill 142, however, sets the stage for the transformation of welfare from a social assistance program to a loan program - another radical departure from the fundamental premises of a social safety net. We have two points to make under this heading.

(1) It has been demonstrated over and over again that the vast majority of people on social assistance are there

as a last resort. I give you quite a list here of why people are on social assistance. Basically it boils down to the fact that they don't have a job. Prior to receiving benefits and during the receipt of benefits, they are taxpayers. We draw an analogy between these people and hospital inpatients. They are also receiving services primarily because of causes outside their control and they are also taxpayers. There is no moral difference between turning welfare into a loan because the benefits came from the public purse and turning OHIP into a loan because it came from the public purse.

(2) Requiring repayment of assistance is also unsophisticated social policy. Forcing people to repay assistance, along with other asset-stripping practices of the welfare system, simply makes it more difficult to build long-term or old age security. Repayment may even be a disincentive to make a maximum effort to leave the system if the only result is to be stuck with a debt.

Disability: We support the general concerns raised by the disability community with regard to Bill 142 and are specifically concerned about how the government is redefining disability. The people within our coalition who have disabilities asked me to mention three things:

Under subsection 4(2), it would appear that people could be denied benefits because of substance abuse. The World Health Organization, the Canadian Medical Association, the American Medical Association and the British Medical Association, surely reliable bodies, all state that alcoholism is a disease. If left untreated, alcoholism can lead to recognized psychiatric syndromes such as Korsakoff's psychosis. Substance abuse can lead to people contracting AIDS or HIV infection through the use of contaminated needles. We have members who are currently receiving disability benefits because of a psychiatric illness and who also have a substance abuse problem which exacerbates their illness. People with severe diseases require support. They also will not just disappear if they're denied help.

The final section is concerned with democracy. Bill 142 and the process used to bring it into effect abrogate the democratic process in our province. We have two points to make under this heading.

(1) The bill allows for the issuing of regulations by cabinet in 48 different areas, ranging from eligibility requirements to privatization. These regulations can be issued without consultation either with the opposition parties or with the public. For a government which preaches that it wants to get out of the lives of Ontarians, we would suggest giving cabinet this extensive power is highly contradictory.

(2) The government is rushing this bill through the Legislature with inadequate public hearings or parliamentary debate. You seem to have forgotten that the democratic process does not end when the polling stations close on election day. We would go further and suggest to the government that a large majority within the Legislature places a special responsibility on each member of the ruling party to ensure that consultation on important legislation is extensive. I would go further and say when that

legislation is concerned with the most disadvantaged people in our society you have a personal responsibility here.

In conclusion, the Thunder Bay Coalition Against Poverty believes that Bill 142 reflects yet another attack on the poor of this province by the current government. It will do nothing to create jobs, the real solution to poverty. It will make it more difficult to apply for welfare and easier to be kicked off welfare, thus miraculously reducing the welfare stats but doing nothing to alleviate need.

The Chair: Thank you very much, Ms Mather. We thank you for your presentation. Unfortunately, you've exhausted the time that was allotted to you. Twenty minutes goes by very quickly.

Ms Mather: I'm still having a drink of water, okay?

The Chair: That's quite all right. You're entitled to have a drink of water; you've had to rush through it so quickly. Thank you for coming from Thunder Bay.

Ms Mather: Incidentally, I believe the fact that so many of us are exhausting our time and are not being able to answer questions which we're perfectly willing to answer indicates that probably these hearings are not long enough and that 20 minutes isn't long enough. I think that's proof.

The Chair: I stated at the beginning of the session that we are working under a government time allocation motion. We have no flexibility with respect to the time available to us. What we've tried to do is accommodate as many people as possible within the eight days of hearings we have.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 615

The Chair: I ask the Ontario Public Service Employees Union, Judy Kosmerly, to come forward. Welcome. I would ask you to introduce your copresenter, and you then have 20 minutes for your presentation.

Ms Judy Kosmerly: This is Suzanne Copes. She is also a member of OPSEU, Local 615. She is going to start off the presentation.

Ms Suzanne Copes: Thank you very much for allowing us the opportunity to come here. We are both rehabilitation counsellors. We work in Sudbury and we're members of OPSEU. This presentation is prepared in conjunction with our colleagues. All of us have a minimum of 10 years of experience in VRS for the disabled, and some of us have work experience in income support. The following constitutes our concerns with respect to the proposed legislation.

While we agree that there is a need to change the welfare system, we have concerns over some of the changes proposed in SARA. It appears to us that this act makes a number of very faulty assumptions.

(1) The first assumption is that people requiring social assistance neatly fall into either one or another of two categories: people who are substantially disabled, and people who are employable and who only need social assistance on a temporary basis to help them become self-

reliant. While this assumption looks fine on paper, in actuality people are not so black and white. Our experience has been that a large pool of people fall into a grey area. These particular people have barriers to employment, including medical ones, which, although not significant enough to entitle them to disability allowance under the ODSP, are significant enough to negatively impact on their ability to become self-reliant through employment as defined by Ontario Works. We are concerned about what will happen to these people under the proposed legislation.

(2) The second assumption the Social Assistance Reform Act makes is that most, if not all, disabled persons are self-directed and that they have clear vocational plans and only require employment support to make their plans a reality. This is indeed the case with some disabled persons. It has been our experience that for a large number of them it is not the case. These persons often require a great deal of time and assistance to help them determine a suitable and realistic vocational goal. These assumptions will be addressed in greater detail in the course of our presentation. We now turn to specific sections of the legislation.

1400

Schedule B, Ontario Disability Support Program Act: Section 4 of schedule B defines who is, and who is not, a person with a disability under the act. While the proposed definition is good in that it clearly states who is a disabled person from a medical perspective, that's all it does. As rehabilitation professionals, we are very aware that: "It is a great mistake to assume that the degree of handicap can automatically be predicted from the medically diagnosed disability. The total impact of a disability is either mitigated or compounded by a complex configuration of strengths and weaknesses in the afflicted person and the environment."

In other words, the definition of a person with a disability outlined in the ODSP act does not present the whole picture, only a part of it. It does not consider a person's profile, things like age, level of education, the degree of difficulty they may have had in school, their transferable job skills or lack thereof, their social and familial factors that have impacted on their lives; nor does it look at personality-related factors, which may include lack of self confidence and self-esteem, difficulty they may have had understanding and accepting things around them or taking control of their situation.

We have found over the years that the disabled clients we work with seem to have more non-medical handicaps which significantly disable them. These include reports of physical and sexual abuse, difficulties coping with anger and change, weak literacy and numeracy skills, and difficulty learning in school not due to a specific learning disability.

These people have significant barriers to employment and likely will not be able to maintain competitive employment to become self-reliant. However, their barriers to employment, while substantial when considered in whole, will not satisfy the proposed definition of a "disabled person" because the definition focuses on just

the medical aspects of the problem, hence they will fall through the cracks.

Subsection 4(3) of schedule B states, "A determination under this section shall be made by a person appointed by the director." We suggest that to make the proper determination of whether a person is disabled within the meaning of the act, there should be input from a vocational counsellor or rehabilitation professional who have training and experience working with the disabled.

A 1993 study, done by a colleague of ours while she was in her masters program, found that 43.3% of the referrals that VRS in Sudbury received were from municipal county welfare departments; this trend continues. A number of the clients who are referred for VRS by welfare departments are not suitable for employment. However, they're referred for services because we have the resources to assess clients' employment potential. If, after repeated tries, these individuals are deemed to be unsuitable for competitive employment on predominantly medical grounds, VRS prepares a submission to the medical advisory board at family benefits detailing the assessments that were completed and their results. Because these reports are so complete and demonstrate, through hands-on assessment, the capability of the person to work competitively, they are valued by the MAB and in most cases lead to the granting of a disability allowances for the client.

Without some kind of a screening process or input from persons trained to provide vocational assistance to the disabled, many persons who cannot work because of their disabilities will be deemed to be ineligible for the ODSP. We therefore recommend that vocational counsellors for the disabled either be used by the person appointed by the director to screen clients for a disability allowance or be part of a team or board to determine eligibility for the ODSP.

Ms Kosmerly: I'm going to address the part III, employment supports for the disabled, which we are the most familiar with.

We have a major concern, first of all, with subsection 32(1) of ODSP. I'm not going to read the section, because it's listed here, but the main concern is about removing barriers to someone's "competitive employment" and helping someone attain his or her "competitive employment goal."

We remind the legislators that the people who will be eligible for ODSP will be those people who have "substantial physical or mental" impairments and who have "a substantial restriction in activities of daily living." For many of these people, competitive employment may not be feasible.

The term "competitive" in itself is ambiguous because it is not defined. How will it be defined? Will it include casual work, someone working three hours a week in paid employment, or will it be expanded to include working a minimum of 17, 18, 20 or 25 hours a week or more? Given that "competitive" is not defined in the act, will that mean that "competitive" is defined in different ways by different service coordinators, and hence will it be inconsistent?

We do not dispute that most disabled persons want to work. However, we suggest that if the government genuinely wants to encourage them to work, they must be cognizant of the fact that a number of these people will not be able to work competitively. They may, however, be able to engage in casual employment and in volunteer work to increase their feelings of self-worth, self-reliance and self-confidence. We ask that the government not deny these people employment supports, but enable and encourage them to engage in employment at their optimum capabilities by providing them with the supports they require.

Our next concern is with clause 32(2)(a) of schedule B, which we felt is very unclear. While we've been told that the intent of this section is to extend eligibility for employment supports to disabled persons who, because of their income, do not qualify for financial assistance under ODSP, this is not stated in this particular section of the act. As it reads, employment supports may be provided to anyone who has "a physical, psychiatric, developmental or learning impairment that is continuous or recurrent and expected to last one year or more and that presents a substantial barrier to competitive employment." Does this include persons on Ontario Works? If it doesn't, it should.

We've also listed what clause 33(c) states, that a person may not qualify for employment supports if they're "not a member of a class of persons prescribed to be ineligible." Conceivably, this section could be used to exempt recipients of Ontario Works. This is particularly problematic, as we can foresee a large pool of people who will not be eligible for the Ontario disability support plan on medical grounds receiving benefits from Ontario Works. These people, however, may also be very difficult to serve under Ontario Works, because they may have extreme difficulty satisfying their "obligations to become and stay employed," mainly because they have "physical, psychiatric, developmental or learning impairments" that are "continuous or recurrent" and that present "a substantial barrier to employment."

These are the people we see who have bad backs, borderline intellectual abilities, personality disorders, heart problems, hearing problems, irritable bowel syndrome or Crohn's disease, to name just a few of the illnesses, all disabilities that impact on their ability to work but not significant enough to warrant a disability allowance. They are also the people who, in most cases, are currently in receipt of general welfare assistance because their disabilities cause a vocational barrier to employment. Vocational rehabilitation services provides employment support to these clients now, but who will take over this job once the VRS program no longer exists? It is doubtful that the money will be available under Ontario Works to provide the same level of services they currently receive. Municipalities faced with these types of clients may demand special services and supports and likely special cost-sharing.

We therefore recommend that Ontario Works clients who satisfy the definition of clause 32(2)(a) be offered employment supports under ODSP. This seems to be the least costly and most effective way to provide services to

this particular grey-area group, which is likely significant in number.

Our next concern is with clause 33(b) of schedule B. Again it is very limiting in terms of who may be eligible for employment supports. This section states that no one is "eligible for employment supports under this act unless he or she is qualified for them under section 32 and" — what's problematic for us — "the person intends to and is able to prepare for, accept or maintain competitive employment."

Many of the clients who are on disability allowances at this time have, for whatever reason, not engaged in employment in the past. These people may not know if they're "able to prepare for, accept or maintain competitive employment," even though they have every intention to do so. This section of the act is very restrictive and, we believe, unnecessary.

Given that persons on ODSP will not be obligated "to prepare for, accept or maintain competitive employment," should they not be given the support and encouragement to try to become more self-reliant? Who will determine if they are "able to prepare for" employment? Will people be denied employment supports because they have disabilities which severely hamper their communication skills, their mobility skills or their ability to take care of themselves and thus are not "able to prepare for, accept or maintain employment"?

In 1992-93, referring back to the study that was done by our colleague, only about 19% of persons on family benefits in Sudbury applied for vocational rehab service. The percentage of these recipients who were on Gains-D was even smaller.

We believe that more people would utilize employment supports if they were encouraged to try to work. Only then would many of them be able to determine if they could actually engage in work, be it competitive, casual or volunteer. We therefore feel that clause 33(b) is restrictive and regressive and should be removed from the act.

I'll try and talk as fast as I can, because I realize we're running out of time.

Subsection 35(2) of the act states that "A service coordinator shall not provide employment supports to a person who is found to be eligible under subsection (1) without first entering into an agreement with the person setting out the nature and amount of supports to be provided and the conditions upon which those supports are to be provided."

1410

While it is very important that all parties be aware up front what the rules are with respect to the delivery of employment supports, drawing up an agreement which lists the nature and amount of supports offered does not allow for any flexibility in working with the client and does not allow for those unanticipated supports that the client may require. A financial agreement and employment plan will be easy to complete for disabled persons who are self-directed, but in actual fact it has been our experience that the number of clients who are self-directed is very small indeed.

Many clients who are currently in receipt of a disability allowance and those disabled clients we work with on general welfare assistance have no idea what they want or are able to do vocationally. They may have new disabilities for which they don't know the vocational impact. As well, they may have never attempted work before or repeatedly failed and may not know what they can and cannot do realistically. Many of them have a very limited idea of what kinds of jobs are available in the workforce.

For these people, it will be very difficult to prepare an employment plan that takes them from start to finish. Rather, these clients may require a number of supports or assessments on a step-by-step basis to help them determine for themselves what kind of work they want and can realistically do. These clients may proceed very slowly in their vocational rehabilitation and may require a number of changes. Hence, it may be impossible to prepare a funding agreement at the outset. If such an agreement is entered into and a new, more costly employment plan is required, does that mean the client will have to withdraw his plan because it's more costly than the agreement allows? We concur that an agreement is necessary. However, we are concerned about the flexibility and the timing of the agreement.

Where the client is not self-directed, a binding financial agreement should not be entered into before some employment supports are provided. Such supports may be required to actually develop a feasible employment plan. As well, the agreement should be flexible and ongoing to allow for changes based on the person's ability to engage in employment.

The last section under this part that we have difficulty with are subsections 36(2) and (3), which address the establishment of a dispute resolution process by the service coordinator of employment supports. We believe it is wrong to deny a client the right to a formal and neutral appeal process.

Having the service coordinator who is providing the employment supports in the first place be responsible for resolving disputes over eligibility for services, cancellation of services and the nature and extent of services may lead to a perception of bias on the part of the client. It is not realistic to assume that a mutually acceptable agreement will be achieved in all instances between the service coordinator and the client and that the client will concur with any and all decisions made by the body that controls the purse-strings.

Ms Copes: I will now start with the Ontario Works Act. Clause 1(b) of the Ontario Works Act states, "The purpose of this act is to establish a program that provides temporary financial assistance to those most in need while they satisfy obligations to become and stay employed."

We are concerned for those persons who will be unable to "satisfy the obligations to become or stay employed." Based on our experience working with disabled persons on general welfare assistance, we submit that this particular group is a large one and will grow larger by adding the age 60 to 64 group. These are the people with whom the for-profit employment partners will be less willing to

work, as they will not be cost-effective and will require too much time to assist.

These are the people who have significant barriers to employment, including disability ones from an Ontario Works perspective but not from an ODSP perspective. They are the people who are becoming frustrated and angry as they are told they must engage in employment or lose their Ontario Works financial assistance, but who cannot. They are the people municipal taxpayers will blame for receiving funds but achieve limited success towards self-reliance. What happens to these people?

We suggest that this group of hard-to-serve clients be made eligible for employment supports under ODSP in order to get the additional support and assistance they require to become self-reliant. While accessing services, they should be exempted from participating in Ontario Works. If, after being given every available employment support and opportunity, they still cannot engage in competitive employment because of a combination of factors, including disability ones, then they should be determined to be eligible for benefits through the ODSP.

Section 14 addresses failure to comply and is very punitive. What happens if clients cannot comply because the barriers to employment they face are too significant to allow them to comply? The suggestion made above may address this issue.

We find clause 6(b) to be somewhat confusing. Why would you provide employment assistance for people who are eligible for income support under ODSP when you already have employment supports available for them under that particular act? Is this not a duplication of services, or does it mean that the employment supports available to ODSP clients will not be as broad as those available to clients under Ontario Works, or does this mean that individuals who can access supports through Ontario Works will be denied services through employment supports?

Our last two concerns:

(1) The proposed change to take persons between the ages of 60 and 64 off the current Gains-D system with family benefits and put them in Ontario Works. We are very concerned about this. Reducing their income by about half and expecting them to engage in employment is a poor thank you for their contribution to the community over the years. This group of people will be, on the whole, very difficult to market, may not be interested or willing to engage in lengthy training programs and may not have marketable and transferable skills. We are not saying these people do not have a contribution to make to the community. However, why not allow them to continue receiving the higher level of financial assistance through the ODSP and encourage them to work if they wish and to access the employment supports available through ODSP?

Last, we are concerned about employment opportunities in northern Ontario. Many of our smaller communities have very limited employment bases. We anticipate that clients living in these communities, places like Manitoulin Island, Noelville and French River, to name a few, will have significant difficulty fulfilling the employment obli-

gations of Ontario Works. Will these people be forced to move into larger communities to actively participate in Ontario Works? Will the government help them make this move if it's demanded of them?

Ms Kosmerly: This concludes our presentation to the group. Hopefully, the information we've provided will lend some food for thought in the determinations of how the final legislation looks.

The Acting Chair (Mrs Sandra Pupatello): Thank you so much for your presentation. I can't tell you how sorry I am that we don't have time for questions; we've used the 20 minutes. But we know we can reach you if we need to, Ms Kosmerly. Thank you.

NORTH BAY METIS COUNCIL

The Acting Chair: I call John Novack next, please, North Bay Metis Council.

Mr John Novack: I'd like to say thank you. My name is John Novack. I was called on October 10 to make this presentation, which I don't believe is enough time. The people I would have liked to have had here to do the presentation have other commitments, so they couldn't make it. But it's a very important piece of law and I would like to say something on it. What I did was go out and make phone calls to some of the people who are disabled and on workfare, and they came up with some questions about what we have here, which I picked up at the minister's office.

It has on page 3 eligibility requirements. Participants would have to accept job offers. What they want to know is, do these job offers have to be permanent? Why would they want to accept a job doing something for two or three days and then have a hard time getting back on welfare? This has happened to them in the past and they're concerned. Is this a way to save money, that they would be refused to go back on for, say, a period of two or three weeks while they're being investigated or whatever the circumstances are? These are things that they've asked. They don't understand it and they're afraid.

Another thing they have is that it says if they are on the system for a prolonged period of time: Who considers what a long period of time is? Two weeks, a year? Again they're worried about what happens if they go to work. I speak for the people who come into my office. A lot of them are disabled and many are on welfare. It's not because they're afraid to work; it's because they're on the system.

We do need changes, but as it stands and from what I see the changes are going to be, all we're doing is locking them in again. If they go to work for two weeks and they come back, it says here in parts, "You'll have to reapply." There's one part that says you don't have to reapply, but then in the next statement it says you do. These people are afraid, so they don't come forward to look for jobs.

I have some other questions that I've written down, because I didn't know what I could bring in. It says here, "A person who has a substantial, physical or mental impairment." What will "substantial" mean? As it is, it doesn't

say. It says, "substantial." Who can apply for disability? Does "substantial" mean you have to be blind or unable to walk to apply? It says, "restriction in activities of daily living." Well, some people are disabled and still able to function. We're not given these explanations, as far as I can see. I don't know who is going to be making these provisions in here, but there sure are an awful lot of things that have to change.

1420

It says, "have been verified by a person with the prescribed qualifications." This is a scary one. Who are these people who will be making these decisions? As it goes right now with the schools, they're talking about putting in unqualified people to teach school. I wouldn't want to be coming to a social worker and saying, "I have a disability; my back is broken," and have them decide, or somebody saying they're qualified to make these judgements. These are questions that the people asked me to speak about here. What will their qualifications be, these people who are going to be making these decisions? Is it going to be councillors or people working for the city?

We had this problem before with welfare. The city had all the authority. From what I can see, we're going back to the same system, where they can say: "Look. We've got restrictions on money. We're not going to put you on welfare or disability." This is what it seems like to me, that we're just going backwards instead of forwards. It says "a qualified person." Who will it be? A doctor, or will it be just some layperson off the street that the government feels, "We can get them cheap, and let's let them pass judgement on who is eligible." Or will they take the word of our doctor? If a doctor says, "You are disabled," for a certain reason, will the government people in place say, "No, we will take you to our own doctors or to whomever we feel is going to make this qualified decision?"

These are the questions I was asked, and I'm asking you. I sure would like to have some kind of idea before I leave here of how this is going to be treated.

It says, once an individual has qualified they will not be retested. It says that in one spot, and down below it says they may if they qualify financially. What do they mean? In one place it says they're not going to be retested, but if they've gone to work — say they made \$2,500 this month but they've spent it on bills and paid off everything. Are they going to be able to get right back on to the system? I don't think so, the way it says here, because if you qualify financially — what they're saying is that if you've made \$2,500 this month, you're going to have to wait to get back on.

These people can't afford to wait that long, because although they've made this amount of money, likely it has gone into bills and other things they needed. What is happening here is that we're being told different things, and it scares the people.

I go back to where it says there will be a quick resolution of appeals. By whom? Who will be making these decisions? Will the city, municipalities, be putting people on these boards to make these decisions? It says here,

"Each delivery agent would be required to establish an internal review process to address complaints or disputes," and then it says further down, "No appeal will be allowed to proceed until an internal review is requested and completed." Well, how long, and who would make this request? Would it be the person or would it be the municipality? How long would the person wait? Would his benefits be discontinued while he's waiting? They don't know.

Then it says here that "financial assistance could be provided." It should say, "should be provided," so that they're not taken off. It will bring hardships on them. They have rent, they have food, everything to buy; yet even today they don't think about this when they cut people off welfare or disability, for one reason or another.

As I see it, we're going backwards to where we were before. If all these things they're putting in here are not put in place properly, we're going to have the same system where people are going to go out and say, "If I get off this to go to work for a month or so, I'm going to have to find an angle, some way of hiding what I make that's over the limit, so I'm not going to be cut off." This is what I see from this bill that's going to be passed.

We are not getting straight answers from anyone, and it's scary for the people who have to apply. Nobody knows, from what has taken place here, how or what disability is going to be. As it is, you have people with back problems who could work as volunteers or at things where they can work for maybe three or four hours a day, but they won't come forward and say, "Yes, I'll go to work," because they'll be penalized one way or another. They'll either be kept off for an extra three weeks — which is money the government saves, of course. You probably get interest on it while it's sitting in the bank.

These people won't come forward. They are very scared of this bill. A lot of them won't even speak when you ask them, "What do you think of it?" They say, "If we don't talk, it'll go away," because they are terrified. People who have been on it for years are now afraid that they're going to be called up and be retested and taken off. There are people who have been on it for 20 years. Their doctors at the time said they were disabled, and they are, but they would not go and work because of these restrictions.

I don't know. It really has these people worried about the standards of who is going to be the delivery agents. This is a big one. It doesn't say, other than that it's going to be back to the municipalities. I don't think we should be doing this. There's a clipping from the North Bay Nugget which says, "Bill 142 Loopholes Worry Councillors," because they're facing the costs. You can be sure that if these people are in charge, they're going to make sure they have as few people as they can. They're not going to be putting out more money.

These are just some of the questions that were asked. As I said, I don't deal with this as a professional. I sit in an office as a volunteer where these people come in; I hear a lot of horror stories. Some of the people I spoke to asked me to bring this forward. I surmise from what they were

saying that there's very little trust in the government today that is making this bill. They believe, most of them, that it is because of what the tax break. They're trying to find the money someplace and they're going to, at the expense of the poor and the disabled.

What will be done? They believe this will pass anyway, regardless of what is said. This bill is going through too fast and there's going to be an awful lot of people hurt. They believe that even the crime rate will go up because people have to eat. Whether they're disabled or not, if they're unable to work they're going to obtain the money someplace. This was said to me by people who are afraid they're going to be cut off their benefits. In conclusion, I would say there's not very much trust in the government when it comes to doing these bills.

I thank you for this opportunity to speak. For the question part of it, as I am not prepared, maybe this lady here could take my place to answer questions, if it's okay.

Ms Mather: I would be willing. I'm not sure whether it's appropriate for me to speak for the Metis.

Mr Novack: No, just speak for yourself.

The Chair: Thank you, Mr Novack. You've posed a number of questions in your presentation. Maybe we could use the remaining time to get some responses. Would that be all right?

Mr Novack: Sure.

Mr Kormos: Chair, I'm prepared to relinquish our time, because I want to hear the answers to these questions too. I'd like to have Mr Carroll answer some of them.

The Chair: We have approximately nine minutes left. In fairness to Mr Carroll — I don't know whether you've noted the questions down. Would you be prepared to respond to them now, Mr Carroll?

1430

Mr Carroll: I don't know that I wrote them all down, but I will take a shot at some of them, because some of them are questions I'd certainly like an opportunity to clarify.

First of all, in terms of your concern about the retesting, we need to separate those people who are currently on the family benefits system as disabled. When this act is passed and is proclaimed, they will all be grandparented on to the new system. There will be no retesting done of them on to the new system when this bill is passed.

If they leave the system — if they have an opportunity to work for a couple of days or a couple of weeks or a couple of months — the current situation involves some jeopardy for them, because if they take a chance at working for a while, they then have to go to the back of the queue and go all through the process again. In the new act, we have provisions for rapid reinstatement, so that if somebody does take a shot at trying to help themselves and it doesn't work out well for them, they can be reinstated.

The Chair: Mr Kormos, we're trying to conduct a hearing.

Mr Kormos: I'm just showing Mr Novack a copy of the bill so he can ask the questions he needs to ask.

The Chair: Thank you very much. As always, you're very helpful.

Mr Carroll: There will be opportunities for folks who are on the disability program to try to help themselves, knowing that if it doesn't materialize they can go back on the system rapidly and be reinstated. There's no jeopardy under the new system, though there currently is under the old system.

Mr Novack: As this gentleman says, where does it say that in the bill? Does it state this in the bill?

Mr Kormos: The grandfather clause.

Mr Carroll: I'm not sure exactly which schedule it's in, but it is in the bill that current recipients will be grandfathered.

The second issue I'd like to deal with is the internal review process. Currently at SARB, the Social Assistance Review Board — the last stats I have are as of the end of June — the average time to resolve a case is 208 days, and they're about 2,500 cases behind. In an awful lot of situations, an appeal comes before SARB and the person who's pleading their case doesn't even show up when their turn comes up. It's burdened with an awful lot of cases that we believe could be resolved at an intermediate step before we get to SARB.

The provision is there for an internal review process so that if somebody is denied benefits, they can ask for a second opinion. If that second opinion is the same as the first opinion, they can then appeal to the Social Benefits Tribunal. There's an intermediate step in there that we think will speed the process up and cause less of these disputes to go to an expensive tribunal that doesn't work very effectively right now.

Mr Novack: How qualified would these people be? Will it be just any layperson, or will it be somebody who's a social worker, qualified in this field?

Mr Carroll: The first decision will be made by somebody who is a social worker in the delivery system. The subsequent appeal would be to a person with the same qualifications, but it would be somebody who was not involved in the original decision. The second person would be asked: Here's a case; how would you rule on this case? They may overturn the original decision, or they may substantiate the original decision, in which case the person could appeal to the Social Benefits Tribunal.

Mr Novack: Would the person who is appealing be allowed to have his doctor or his lawyer with him if he felt like it, to make sure the system is not being abused? There's going to be abuse. The government will abuse the poor people. Would the government object to having a lawyer with them to make sure that what is said is down in writing? People have been taken off for very little reason and have not been able to get back on, whereas if they had had somebody there, a lawyer or a doctor — even now, they are saying the doctors make decisions and they're no good.

Mr Carroll: The original decision and the internal review process would be done with the person — some people have advocates who come forward on their behalf. Once it would get to the Social Benefits Tribunal, it would

be expanded greatly at that particular level and they could have access to experts. The original assessment currently is done by a medical practitioner and has a medical model to it. We believe there is more to the disability area than a medical model. There's a functional limitations model that needs to be looked at. We need to bring in some other people, be they psychiatrists, psychologists, whoever, who can help to determine that this person has a disability.

Mr Novack: Would there be some provision put in there that the person who is making the appeal could access funds to get professionals? It's one-sided right now; the government has all the money. If I were to appeal, would there be a provision in there that I could access funding for professionals?

Mr Carroll: I don't believe there is provision for that and I don't think there currently is either, provision in the act to allow somebody to hire a bevy of professionals to come and substantiate their claim. Maybe I'm naïve, but I think that if somebody has a disability, we as a society and certainly we as a government have an obligation to help them. If it needs a bevy of high-priced professionals to come before a board to prove they have a disability, maybe it's not that clear under the definition that they have a disability.

But I think we're dwelling on an area that is the exception rather than the rule. I would like to address a couple of other of your issues. You talked about —

The Chair: I regret, Mr Novack, that you've run out of time. You've put some very good questions. This is part of the problem we have; there just isn't enough time to answer all of them.

Mr Carroll: Could I just add that the grandparenting issue is in section 6 of schedule D.

The Chair: Thank you very much for being here.

UNION OF ONTARIO INDIANS

The Chair: I ask the Union of Ontario Indians, Chief Vernon Roote, to come forward. Welcome to our hearings. I note that you have some people with you. I would ask you to introduce your copresenters for the record.

Chief Vernon Roote: Thank you very much. My name is Vernon Roote. I'm the grand council chief of the Union of Ontario Indians. With me are Natalie Payette Chevrier, who is the director of social service, and Jack Chrisjohn, coordinator for the social reform pilot projects we'll be talking a little about.

Good afternoon, committee members and other invited guests. I am here to speak on behalf of the 43 Anishinabek nations located in Ontario. I want to remind the committee members about the difficulty in getting placed on the agenda, but I still want you to know that I appreciate the opportunity to speak on this topic.

In 1965, the government of Canada and Ontario entered into a bilateral cost-sharing agreement to extend provincial social programs to first nations. Ontario extended the general welfare assistance, day nurseries, homemakers and nurses services and child welfare and family services programs to first nations. For each dollar spent, Ontario

would receive 93 cents to 95 cents on the dollar from the federal government.

When this government came into power, it reduced welfare benefits by 21.6%. Because of the high take-up of welfare, first nations were disproportionately affected by the cuts. The cuts were announced as a cost-saving measure, but most of the net savings went directly to the federal government.

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One has to be aware that welfare in first nations is not just a stopgap measure but an integral part of first nation economy and lifestyle. This is due to the limited employment opportunities available within first nations. Usually, the only employment available is through the administration office or through short-term projects. According to the royal commission report in 1995, it was estimated that approximately 6,000 people relied on GWA and another 3,000 people relied on family benefits. It does not take a rocket scientist to figure that this amount is too high and reform is needed to lower the numbers.

We have been experimenting with different methods to reduce the number of people on social assistance. We would encourage you to review the Innovations pilot projects we have implemented. We feel this is a model that parallels your Ontario Works and one that we feel will work in first nations. It starts out with employability assessment and planning and moves to employment support through linkages to education and training. It provides financial support to participants to enter the employment market and even reaches out to those who want to start their own businesses. The major difference is that this model is voluntary and not mandatory, as is Ontario Works.

All the pilots currently under way focus on people entering the job market, so we are not opposed to people being put to work. I know there are stereotypes out there that suggest first nations people are lazy and do not want to work, but I want to correct that myth and let you know that most first nations people want to work. Before we implemented our Anishinabek pilot project, we consulted with the four pilot sites, and there was a resounding affirmation that people did want to work. While people would prefer full-time employment, people would not be opposed to working for their welfare, especially if it was going to increase their chances for full-time employment. Over the years, many first nations have tried to implement work for welfare but were forbidden to do so under the former rules.

In 1965, an agreement was made between Canada and the province of Ontario to cost-share the implementation of the welfare system. Part of this agreement was the commitment to consult with first nations prior to the implementation of a new welfare system. The Ontario government has not fulfilled this obligation and may be in direct violation of the provisions of that agreement. We also signed a statement of political relationship with the government of Ontario guaranteeing our right to govern ourselves. The constitution also guarantees all our existing

rights, and we believe this includes our right to govern ourselves.

The new Social Assistance Reform Act is one of the most intrusive pieces of legislation that any government has developed in recent years. It is paternalistic in design and completely ignores our role as a coexisting government structure. It will move us further from our goal of jurisdiction over all first nation services. Having said this, I cannot in good conscience support Bill 142 as it now stands. This is not to say that we should completely toss out the concept, but we must sit down to discuss the implications of this new legislation. The concept of work for welfare is not one that should be discarded.

Since we support the concept of getting people off social assistance and into the workforce, there is definitely a chance to work together. However, instead of trying to make Ontario Works adaptable to first nations, we should work together to develop and implement a system that addresses the needs of first nations and recognizes the direction of Ontario.

We are always trying to make your system work in first nations, and history tells us that this never works. If we force people off social assistance without any other form of support for them, we are only going to make them more poverty-stricken.

I would like to recommend that more consultation take place with first nations to get their views on reform. Perhaps a moratorium should be placed on the current system until such time as consultation takes place, and if the review recommends that a new system be developed, the moratorium should be held until that system is developed and delivered.

I would like to turn the microphone over to staff members who will address specific components of the bill. I am pleased to introduce Mrs Natalie Payette Chevrier, director of social service, and Mr Jack Chrisjohn, the coordinator of our social services reform pilot project.

Mrs Natalie Payette Chevrier: I'd like to thank Grand Council Chief Vernon Roote. I also extend greetings to all the committee members, ladies and gentlemen, and other invited guests.

I am pleased to speak about Bill 142 and the potential impacts on first nation communities. Being part of the project to reduce the dependency on welfare gives me an insight into the difficulties you will face in trying to place people in jobs.

I would like to begin by saying that you are right about the necessity for welfare reform. When we look at the changes taking place in other provinces and around the world, we know that these changes in Ontario are going to happen. When we look at the rapidly increasing use of welfare in first nations, we too want change to occur. However, change is always frightening, but the way to challenge change is to analyse what change will occur.

Work for welfare seemed to be all right, but as we got into the details of the new act, we began to realize that the change was going to have a significant impact on first nation communities. We are encouraged about the prospects of jobs for first nation people, but we are completely

disillusioned about the way the act will be imposed on first nations.

As it now stands, we have a lot of questions about how Ontario Works will benefit our first nation communities. During the sitting of the last government, a statement of political relationship was signed by the government on behalf of the people of Ontario. We still honour this document, but the actions of your government indicate you no longer support the concept of relationships. Why does this not surprise us? Maybe it is because of other commitments that other governments have failed to live up to.

This immediately raises the question of what happened to the commitments made in the 1965 welfare agreement. We were led to believe, under clause 2.2, that first nations would be consulted before changes to the welfare system were implemented. Since there has never been any consultation with any first nation, we interpret this as another violation of our agreement. This kind of relationship cannot continue and must end at some point in time, because people are getting frustrated and angry about your approach.

Our biggest issue with the Social Assistance Reform Act is not so much the concept of work for welfare but the way the act is being introduced into first nation communities. It completely ignores first nations' inherent rights and imposes legislation that will be difficult to facilitate in our communities. It almost appears as if you want us to fail in our attempts to implement your new legislation. We have continually told you that we have other alternatives and have already experimented with different types of reform, yet you have failed to listen to us. We have experimented with opportunity planning in experimental communities, and the evaluation report has demonstrated favourable results. We have experimented with various pilot projects in the Anishinabek communities and are experiencing favourable results. We also experimented with the Innovations project, which closely reflects your Ontario Works program.

Provincial and federal governments have failed to reduce the number of people relying on social assistance, and it is time to change their approach. If we are to make a difference in our communities, we have to introduce our system which recognizes the diversities of each nation and its people. Only then will we see a reduction in the number of people having to rely on social assistance. Bill 142 does not support our endeavours and moves us in a direction that is completely opposite to our long-term goal of jurisdiction.

There are other aspects of the legislation that trouble us. Bill 142 suggests that a number of first nations join together to become a delivery site and that the minister will choose where the designated site will be. There is not even a guarantee that it will be in a first nation community. While this may seem trivial in light of the expected cost saving, it will further divide our communities. Just because first nations coexist side by side, there may not be any linkages to join them together. Our cultural differences often serve to keep us separated, and your new legislation will force us to compete with one another.

I'd like to introduce Jack Chrisjohn as the social security reform coordinator to make a few comments.

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Mr Jack Chrisjohn: If my understanding of Bill 142 is correct, we will not achieve the same level of success as the rest of the province. Vital resources for the community will disappear through non-compliance of both the individual and the system, and the clustering of services means that some welfare administrators will lose their jobs. The removal of the limited resources will have a major effect on our ability to support the micro and small businesses. This will only force more people on social assistance at a time when we want to see positive changes taking place. Your legislation may have the opposite effect and actually add to our welfare rolls.

Your recent repeal of the Employment Equity Act raised a few eyebrows in our community, because in reality, fewer people were hired. What we did not realize is that the local firms would interpret the repeal as a reason not to hire fairly. We hope that time will change their views and they will begin hiring on merit. This would be great, but we are aware that your new legislation is going to force municipalities to require local companies to hire from within. We expect that companies will see this as their civic duty, but it makes it even more difficult for our community members to find employment elsewhere.

Bill 142 suggests that the number of people leaving social assistance to join the ranks of the employed measures success. There are limited opportunities for employment in first nations, yet you have not made any reference to how we are going to get people to work when there is no work to send them to. We need you to tell us how this is going to happen, because we sure don't have the answers. We know how to make it happen, but we need resources to make employment happen.

We know you engage in trade missions to bring major companies from abroad to relocate to cities in Ontario. We would like you to encourage a percentage of these companies to locate in first nations to help stimulate economic development and thus jobs. This may not be the role of the Ministry of Community and Social Services, but you certainly can be the catalyst to make this happen.

Bill 142 defines who is eligible for assistance at a time when first nations should be defining who is eligible. We anticipate that people in the 60-to-64-year-old bracket will be forced into the program. If you consider that the average lifespan of first nations people is 65.1 years, you are asking people who should be retired to go out to work. This has the same effect of forcing other Canadians who are eligible for retirement income to have to work for their pensions. This would not be considered moral, but this is what your legislation is going to do our first nations people.

Another fear we have is that this legislation is going to force people who are alcohol or drug dependent and considered unemployable to suddenly be considered employable. We are not saying that we should reward people who have self-inflicted their own disability, but we must recognize that what they have is a disease. Our concern lies

not only in the harm they may inflict upon themselves but the harm they pose for the people they will work with.

Another concern is that the bill will exempt single parents with preschool-age children from mandatory participation in Ontario Works until their children reach school age. We hope that parents will not have more children to avoid entering Ontario Works, but if the choice is more children or being cut off social assistance, we can respect the choices people will make.

Because of time constraints, I will not comment on any more specific issues. I could have commented on several more specific clauses of the bill and perhaps even commented on some positive aspects, but I chose to focus on the overall impact of the bill. I want to impress upon you that many of our concerns are not even addressed in this bill.

We need to have the province cooperate with us in a way that allows us to complement their resources with other available resources. The social assistance transfer fund through the Department of Indian Affairs would allow us to twin moneys with the province to support job creation projects, but we are not sure if the province will allow this.

Rather than getting into a dispute about the pros and cons of the new bill, I would like to encourage the province to get involved with us in true welfare reform. We cannot continue to dole out welfare in the way we do today, but we are reluctant to opt into work for welfare. We need to review the value of the existing system, take what is positive about Ontario Works and tie these into the successes of the various pilot projects to come up with a system designed for first nations. We need to sit down together with the federal government to discuss the type of reform that respects our ability to govern justly and yet respect the direction of the Ontario government.

While we want to develop a just system, we have to keep in mind the impact the new system will have on members residing off-reserve who may see greener pastures and want to return home. We have to keep in mind that the local resources are already being taxed to the maximum.

I want to close off now. I emphasize that we do not know the full impact of the new Social Assistance Reform Act on first nations because of unanswered questions. We do not know what will happen to the FBA recipients, as the cost for them is not covered under the current 1965 welfare agreement, yet you expect us to add them to our current workload. We do not know what will happen if first nations do not submit a business plan. We do not know what the province will do if we cannot meet the promises outlined in our business plans.

We do not know how people are going to react if we centre them out by placing them in community programs on a daily basis. In other societies, people can be sent to work for welfare and will be able to hide because of the large size of the community. In first nations, people will not be afforded this luxury and will be centred out every working day, not once per month, as is the current practice. It might be a motivating factor for them to leave

welfare, but it may turn out to be more degrading, and without an opportunity to escape, may increase the amount of suicides we currently face. Yes, welfare reform is needed, but we need to be cautious about our approach.

The Chair: Thank you very much, Chief Roote, to you and your colleagues. Unfortunately, you've used all your 20 minutes, but we do thank you for your views.

Chief Roote: I kind of suspected that's what we would be doing. If we did answer any questions, I don't think they would get anywhere anyway. But thank you very much.

The Chair: Thank you for being here.

PETERBOROUGH COMMUNITY LEGAL CENTRE

The Chair: I call Peterborough Community Legal Centre, Martha Macfie. Thank you for being with us, Ms Macfie.

Ms Martha Macfie: Good afternoon. The Peterborough Community Legal Centre is one of 70 community legal clinics across the province funded by the Ontario legal aid plan.

The Peterborough Community Legal Centre has two lawyers on staff who practise exclusively in poverty law areas such as social assistance law, Canada pension plan disability law, workers' compensation, employment insurance, and landlord and tenant law. The centre provides summary legal advice and legal representation to over 2,500 residents of Peterborough county each year.

Over 95% of the centre's clients report their main source of income to be general welfare assistance, family benefits allowance or Canada pension disability benefits. Over 85% of summary advice callers report income from these three key areas. The centre's lawyers have 18 years of combined experience of Ontario's social assistance system.

In the very short time we have here today, we will focus our remarks on two areas. The first is the elimination of family benefits, Gains-A, for 60- to 64-year-olds, and the second is workfare in a rural area.

We endorse the brief on Bill 142 that has been submitted by the Steering Committee on Social Assistance with respect to all other issues that we are unable to deal with here today.

I am dealing now with the first issue, which is the elimination of family benefits, Gains-A, for 60- to 64-year-olds. Census data show that the 55-to-64 age group is proportionally larger in Peterborough county than in the province as a whole. This is evident in the 1981, 1986 and 1991 censuses, particularly in rural areas, where there was a 2.3% greater proportion of people in this age group than in the province overall. Residents aged 65 and older make up 16% of the Peterborough population, versus 11.7% of the population of Ontario as a whole. In summary, the population of Peterborough is significantly older than that of the province as a whole.

Currently, a senior between the age of 60 and 64 may be eligible for an allowance under the Family Benefits

Act. This entitlement is set out in subsection 2(11) of regulation 366 to the Family Benefits Act, which states, "A person who is resident in Ontario is eligible for an allowance and other benefits calculated in accordance with the act and this regulation if he or she is a person in need who has attained the age of 60 years but has not attained the age of 65 years."

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This categorical eligibility for persons between 60 and 64 recognizes that age is an absolutely critical factor in employability. The people the legal centre generally sees receiving the family benefits Gains-A benefits are low-income people from the following groups: single women who stayed home to raise their families and who lack private pensions; men who have limited education and who have worked in low-skilled, low-paying, physically demanding jobs and who are no longer able to work or able to find work; women who have worked in low-paid, low-skilled jobs and who are no longer able to work or find work.

Bill 142 eliminates the FB Gains-A category. This means that seniors in this category will have their benefits terminated when this law comes into force. They will have to apply for general welfare assistance, and their monthly entitlement will drop dramatically, from a maximum FB Gains-A amount of \$930 a month to a maximum welfare entitlement of \$520.

We have included in this submission a statement from Richard Pade, a gentleman living in rural Peterborough county who could not be here today. Mr Pade has the following comments regarding the elimination of the FB Gains-A category, and I'm going to read the statement from Mr Pade now.

"My name is Richard Pade. I am 62 years old. I live alone in a small house near the village of Indian River.

"I was born in a part of Germany that is now part of Poland. I had five brothers and one sister. My mother died in 1940 in childbirth. My father was taken by the Russians in 1945 when I was nine years old. He never came back.

"I only went to grade 8 and then trained as a baker. I developed TB and could no longer learn the trade of baker.

"When I was 19 I emigrated with my brothers, sister and stepmother to Canada. I spoke no English and so I went to school to learn some basic English speaking, reading and writing. My English is still not very good.

"My four brothers and one sister got good jobs at General Motors. I applied for jobs with GM and Ford but wasn't hired. I think this was because I am blind in one eye.

"When I was 28 I got married but it didn't last. My wife and daughter left me after one and a half years and I haven't seen them since.

"The only work I could get was seasonal construction jobs. I did this kind of work until 1991 when I was 56 years old. At that time I couldn't find any more jobs. I used up all my savings and had to apply for welfare. I got only \$362 per month from welfare and could hardly survive. I heated my house with scrap wood that I found and

borrowed money from my brother to keep my old truck running. The truck is important because I live out in the country and it is my transportation.

"While I was on welfare I was quite desperate. I didn't have any running water in my house and this was becoming a big problem for me as I got older.

"I applied for provincial disability benefits. The review board said that I should receive the benefits as a permanently unemployable person starting November 1993 when I was 58. The amount I received was about \$800 a month.

"When I turned 60 the province told me that I no longer qualified as permanently unemployable. They said that I qualified because of my age. The monthly amount I received stayed the same; I just didn't get the dental card.

"Now I have been told that my provincial benefits will be cut off in January 1998 and that I will have to go back on welfare. How can they do that? This is not normal. This will be a disaster for me. I cannot survive on welfare and I cannot get a job. I am depressed and very anxious and scared. I was hoping to survive till I am 65 when I will get CPP and old age security.

"I thought this government had promised that seniors, like me, wouldn't have their benefits cut!"

You'll notice that in my submission Mr Pade has kindly provided the committee with an autographed photograph of himself. I would suggest that you all turn to that. This is a gentleman who is living in quite a rough state out in rural Peterborough county.

This committee should know that I have not had the heart to explain to Mr Pade the full implication of Bill 142. When Mr Pade is forced on to welfare in January 1998, his benefit rate will be much lower than it was in 1991, 1992 and 1993. Then he was receiving \$362 per month. Now Mr Pade would receive no more than \$315 per month, given the 21.6% cut to welfare rates in October 1995. He will also be expected to participate in Ontario Works in order to receive his welfare. He will be required to drive his old truck 22 kilometres to the city of Peterborough to attend retraining programs, look for employment or provide involuntary labour to community agencies. In short, this 62-year-old man, blind in one eye, with low literacy skills, a work history of unskilled labour and with limited life skills will be forced to conduct a futile and very stressful job search for the privilege of living in abject poverty.

The Peterborough Community Legal Centre makes one recommendation under this heading, and that is that Bill 142 should be amended to include categorical eligibility at the disability rate for persons between 60 and 64 years of age, in accordance with section 2(11) of regulation 366.

My next topic is workfare in a rural community. The legal centre supports education, training and employment support that will lift people out of poverty. Unfortunately, many workfare programs, like the Ontario Works program, do not achieve these goals but rather impose harsh punishments on the most vulnerable members of society.

An October 17, 1997, article in the Toronto Star considers the government's mandatory work for welfare

program. It refers to three welfare recipients who are involved with the Ontario Works program.

The first recipient, Hugh Peschka, bemoans the fact that mandatory work for welfare does not apply — yet — to the private sector. He questions the utility of spending valuable job search time collecting litter or cataloguing files in a museum to earn his welfare when he is a highly motivated, "50-year-old former corporate marketer" with a good education and excellent life skills.

The second recipient, 39-year-old Siobhan Summerhayes, a laid-off youth worker with a BA in sociology, spent the summer "traipsing through cemeteries recording and doublechecking names on tombstones" and volunteering one night a week at a drop-in centre for youths in exchange for her welfare cheque. She does not yet have a job, but she hopes that her workfare experience will pay off with a paying job.

The third recipient, 27-year-old Chris Clarke, is enrolled in a one-year microcomputer maintenance course at Georgian College.

The portion of the Star article that sums up the legal centre's concerns with the Ontario Works program is found in the last two paragraphs, which read:

"Liberal social services critic Sandra Pupatello (Windsor-Sandwich) said the big failure of workfare is that it assumes all welfare recipients can benefit from these workfare placements.

"They're going to lump in a person like (Peschka) with someone who has no education or is disabled but can't qualify for disability any more and expect all these people — with vastly different capabilities — can do the same sort of work," Pupatello said."

We ask this committee to consider the fate of Mr Pade once he is forced to participate in Ontario Works. A job search by Mr Pade will be futile, given that he unsuccessfully looked for work for two years when he was 56 and 57. He is now 62 and has not worked for 6 years. He has limited education and life skills, he has only worked at low-skilled labour, he has low literacy skills and he is blind in one eye. Placements in community agencies will also be futile, as they will not lead to any kind of employment. Retraining, such as a college course in microcomputer maintenance, is not an option for Mr Pade, given his age, impaired vision and low literacy skills. What does this government really expect from Mr Pade? Will he even be capable of complying with the Ontario Works obligations? Will his welfare benefits be cut when he fails?

The people who will be most affected by Ontario Works are the following: (1) the medically unemployable by virtue of age, chronic medical conditions falling short of full disability, and limited education and literacy, (2) single mothers and (3) the aging and elderly.

People in the workfare program will be asked to sign participation agreements. These agreements will set out the recipient's obligations under the Ontario Works program. Recipients are not required to sign these agreements and there is not supposed to be a penalty for refusing to sign. But many recipients with disabilities, literacy and language problems and minimal life skills will

feel pressured into signing the agreement and may not understand what they are signing. They may rely on statements made by their case workers that are not actually in the agreement. Recipients' rights will be prejudiced if they sign the agreement and prejudiced if they don't.

Recipients will find themselves in big trouble if they refuse to accept employment, refuse to accept a referral to a community agency, refuse to accept a placement offer and fail to make "reasonable efforts to satisfy a requirement." What is reasonable for a particular recipient is not defined in the legislation.

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Policy guidelines published in August 1996 indicate that factors such as the availability of public or other transportation, commuting time, child care provisions, disruption of education/training programs, illness, court appearance or incarceration or inclement weather may all be considered as reasonable grounds for failing to satisfy a requirement. However, these are guidelines only. Case workers in different regions of the province will have a lot of discretion. In rural areas such as Peterborough county, discretion tends to be exercised so as to reduce that portion of municipal taxes allocated to welfare.

In our view, it is unacceptable that the conduct of workfare employers, illegal activities in the workplace, unsafe working conditions, sexual harassment and racial discrimination are not mentioned in the policy guidelines as reasonable grounds for non-compliance.

The Peterborough Community Legal Centre is also very concerned that the Ontario Works program does not address the special needs of women who have been victims of family violence and abuse. Past violence and the threat of further violence will affect a woman's ability to participate in employment and training measures. For many women, forced participation will allow them to be located by violent ex-partners, thus endangering them and their children. This is particularly true in small communities, where the abuser may have dealings with the agency in which the woman is placed or where a daily routine will make a woman a visible and easy target.

Women who are victims of family violence and abuse have special needs. Many suffer from chronic anxiety and depressive disorders. In Peterborough county there are few community resources to help women deal with these unique problems and there is a notable lack of psychiatric services. For these reasons, a battered woman's success in any program must be measured differently than it is for others. In our view, the government's Ontario Works program must be amended so that participation is voluntary to battered women and so that battered women do not face penalties should they fail to meet the requirements of the program.

The penalties for non-compliance with Ontario Works are severe. Single employables will be cut off assistance for three months for the first occurrence and then six months for each subsequent offence. Family members who fail to comply will see the total allowance for the family reduced by a prorated amount. Getting back on the pro-

gram will not be automatic. Recipients must "demonstrate a willingness to accept requirements to be reinstated."

For these reasons, the legal centre urges the government —

The Chair: Excuse me, Ms Macfie, I notice your brief is quite lengthy. I want to give you a chance to finish the highlights, because you don't have much time left.

Ms Macfie: How much time do I have?

The Chair: You have just over two minutes.

Ms Macfie: Yes, I will finish in that time.

For these reasons, the legal centre urges the government to add some basic procedural safeguards to Bill 142. For example, where a welfare administrator proposes to refuse, cancel or suspend benefits, he or she should give notice to the recipient, together with the reasons for the decision. If the decision is one that may be appealed to the benefits tribunal, the notice should also inform the recipient that the decision may be appealed and how to request an appeal. In the case of an internal appeal, recipients should have the right to know the case that he or she is expected to meet, the right to receive a copy of relevant information from the file, the right to present his or her case and the right to be accompanied and assisted by legal counsel. As well, there should be provision for an extension of time to request an internal review, and where an internal review has been requested, benefits should continue until a decision is made.

The basic procedural safeguards outlined in the above paragraph are of particular importance to recipients in Peterborough county, many of whom have limited literacy and life skills.

For rural residents of Peterborough county, workfare is a frightening prospect. This is an unconsolidated county. Each township has its own welfare department and administrator. In recent years there has been increasing pressure on the county to consolidate with the city of Peterborough. The county has resisted such pressure, citing projected increased welfare costs associated with consolidation with the city, which is perceived by the county to be overly generous with welfare benefits.

The county of Peterborough's Ontario Works business plan provides no information regarding funding levels for transportation costs for recipients. Will they, like residents in Northumberland county, where workfare is already in action, be given only \$20 per month to cover these costs?

There is a dearth of licensed affordable day care in both the city and county of Peterborough. This issue is of particular importance to single parents seeking training or employment through the Ontario Works program. Mothers should not be forced to place their children in a child care setting if they have any concerns about the safety or suitability of that setting. Children of recipients should not have their safety and happiness threatened simply because their parents are welfare recipients who happen to be living in communities with limited child care.

In conclusion, the legal centre's recommendations on that particular issue are as follows:

That this government reconsider its commitment to a mandatory work for welfare program.

That Bill 142 be amended so that the mandatory work for welfare provisions do not apply to the medically unemployable, single mothers and the aging and elderly.

That Bill 142 be amended to stipulate that women who have been victims of family violence and abuse need only participate in Ontario Works on a voluntary basis and that these women will not suffer any penalty should they fail to meet the requirements of the Ontario Works program.

That this government amend Bill 142 to ensure that recipients in Peterborough county are not penalized as a result of transportation barriers and limited child care resources in the community. Thank you.

The Chair: Thank you, Ms Macfie. I regret that you weren't able to read the entire text, but I want to assure you that in its entirety it will form part of our proceedings. Thanks for being here from Peterborough.

CITY OF NORTH BAY

The Chair: I call the city of North Bay, C. Douglas Hill. Thank you for being with us this afternoon. I note you have a colleague. Perhaps you might present him for the record. You then have 20 minutes for your presentation.

Mr George Maroosis: Madam Chair, my name is George Maroosis. I am making the presentation on behalf of the city of North Bay. Mr Hill is to my left. We're very pleased to be here this afternoon. To give you a little of my own background, I've been a member of North Bay city council for 15 years, all of which I've spent on the health and social services committee, nine as the chair — I'm currently chair — and in the other years I was vice-chair. I want to apologize to the committee that many of our remarks this afternoon will deal with administrative and financial implications. We recognize that Bill 142 affects people, but it also affects finances.

To begin on a positive note, we commend the government for changing the existing two-tiered social assistance delivery system into a single delivery system. We agree that this will be more cost-efficient to the taxpayer and accessible to citizens receiving the programs. We also appreciate the inclusion of a statement of purpose within the act and agree with its intent. It's our belief that the integration of financial and employment programs will assist citizens in finding and accepting offers of employment and pursuing training and employment support opportunities.

However, there are some areas of concern which we feel should be appropriately brought to your attention. First of all, the Ontario Works program will not be effective unless the mandatory provisions within the components of the program are combined with flexibility to meet the individual needs of the citizens. I would include in there local partnerships in the community. Second, the proposed legislation does not include any accountability to property taxpayers. Third, the impact of the transfer of programs and responsibilities will result in a substantial increase to costs of the municipality in the long term — and I stress the long term. Therefore, the Ontario Works

and child care programs should be administered and funded by the province of Ontario, not municipalities.

I refer you to an appendix — in fact, we'll be meeting here tomorrow morning with the Who Does What committee allocations with the latest figures. In the appendix at the back of our booklet, if you have a look, you'll see our estimated costs. Just to give you an indication, if you look to the far right, under social assistance you see in the neighbourhood of \$7.5 million in net costs. Our current net cost in this municipality are \$800,000. Under child care, you'll see our estimated net costs to be in the area of \$700,000, when currently our net costs are \$225,000. That emphasizes the concerns of my colleagues on council in the cost implications to this municipality.

1520

I'd also like to reflect on certain specific areas of the act, especially in the regulations section, section 74, which articulates regulatory powers that will be exercised by the province.

In item number 34, "respecting the powers and duties of a delivery agent for the purposes of this act," there does not appear to be flexibility or any consideration of local input in developing a delivery agent that is responsive to the citizens in a specific geographical area of the province.

Under 35, respecting costs incurred under the act and cost-sharing and how it will apply and be provided, and the apportionment of costs in particular, it would appear the cost-sharing formulas could be changed without any municipal consultation.

Under 36, "respecting the determination of cost estimates and actual costs and the reconciliation of them and respecting reserves for working funds," it appears the province will dictate to municipalities the amount of dollars to be spent. Again there's no consideration of municipal input in this process.

Under 37, "respecting the determination of the amounts Ontario shall pay to delivery agents and delivery agents shall pay to Ontario," once again, dictated financial allocations.

Under 38, "respecting the apportionment among municipalities in a geographic area of their share of the delivery agent's costs" when we get these large service delivery areas, once again, dictated to the municipalities is the financial amount we must pay this new larger entity.

Under 40, "prescribing additional powers and duties of administrators" and "the manner in which administrators shall exercise their powers and duties" appears to eliminate any input or discretion by municipal elected officials.

Under 41, it regulates agreements between the delivery agents and third parties with no input from municipalities. This is a very serious consequences because we contract out a lot of social services; for example, emergency housing and child care, just to name a few. Once again there's to be no input from the municipality when we deal with community groups with which we now have positive community partnerships.

In summary, this section of the legislation provides authority to the province with zero input from municipal governments on regulations that may have serious finan-

cial and other ramifications. In essence, property taxes are going to be affected, and this is taxation by decree hidden in the municipal tax bill. We wonder, if the province wants to make all the rules, why they don't spend provincial tax dollars on this system entirely.

We have a section, as well, where we're concerned about some program delivery to citizens within the province.

The first item has to deal with foster allowance provisions that have been retained within the new Ontario Works Act. Despite the elimination of other duplicated services, they're still here. We feel foster allowances should not be made under the mandate of Ontario Works. The provision of foster allowances contradicts the purpose of the stated intent of the legislation, which is to "provide temporary financial assistance to those most in need".

We recommend to the standing committee that the province consider placing this program within children's services programs of the government. We object to the financial implications of placing foster allowance provisions within the new Ontario Works Act. This will add increased costs to municipal taxpayers throughout the province.

Then there's the requirement that 60- to 64-year-old applicants be served under Ontario Works, which creates a further contradiction to the government's policy. Bill 142 allows those 60- to 64-year-olds already in receipt of family benefits to continue to receive the higher family benefits allowance while requiring applicants-recipients to apply and receive the lower Ontario Works amount after January 1, 1998. This is a clear inequity for the second group.

The past policies of this government have protected the benefit levels of this group from rate reductions and we recommend to the standing committee that the province should recognize that 60- to 64-year-olds under the Ontario Works program should enjoy the same rate structure as the group under the Ontario Disability Support Program Act. But we further believe that persons aged 60 to 64 should not have to apply for assistance under Ontario Works. It's inappropriate for this age group to have to participate in employment support and community participation activities on a mandatory basis. This is not a realistic option, especially where labour market opportunities are poor.

We believe the new narrow definition of "disability" under the Ontario Disability Support Program Act will result in a significant increase in the municipal caseload, which translates into increased costs to municipalities. These citizens suffer from psycho-social-physical problems and there is no provision under the present Ontario Works guidelines to provide ongoing deferments to individuals who clearly are unable to take part in the program due to ongoing health problems.

Also, the province has not defined how to assess hard-to-serve clientele suffering from multiple disabilities. This is a particular concern when you consider that North Bay has an Ontario hospital and we are a catchment area for many such people who come from the entire northern

sectors of the province. You're putting some undue stress on our municipality.

We believe that in the provincial administration of this program the province should ensure there is consistency in geographic delivery areas between this program and the Ontario Works administration. We're still waiting to see the new service delivery boards.

In concluding this presentation, I'd like to make a few other comments about the impact of this legislation.

We agree that the present system of appeal under SARB is not efficient and that the new system is an improvement that will protect the right to appeal for applicants and recipients.

Second, we don't believe that liens on home equity should be pursued by the province. In our view this will only create further financial hardships to citizens in the program. When you consider that you're transferring the cost of social housing over to municipalities, of course you're going to create the need for more social housing if you take people's houses.

Third, we are of the opinion that if the use of fingerscanning technology is to be implemented, it should be in a universal and non-discriminatory fashion for all citizens. We are opposed to the use of fingerscanning technology only for citizens in Ontario who are under the Social Assistance Reform Act. In fact, we would oppose it for any particular group. Even if you wanted to fingerprint MPPs, we'd be opposed to it.

Mr Kormos: Too late. I've been done.

Mr Maroosis: You've been done? Okay.

We recommend that the province, in consultation with delivery agents, develop guidelines for the possible use of photo IDs as an interim measure and that the province assume financial responsibility for this initiative.

We wish to raise our concern with the standing committee that the GWA act currently did include a provision for changing the cost share between the province and municipalities should the caseload increase by a certain percentage of the population. We are of the opinion that to insulate municipalities from unexpected economic downturns, the province should reinstitute this provision. To do any less would send a signal that there is no confidence in the province's Ontario Works strategy.

I want to thank you for this opportunity to address the committee and I'd be happy to try to answer any of your questions or elaborate on any areas.

The Chair: Thank you very much, councillor. We have two minutes per caucus. We begin with the NDP.

Mr Kormos: I'm interested in what Mr Carroll would have to say to respond to your concerns, basically about non-consultation, and obviously there would be an argument that AMO was consulted. What's your response to the proposition that AMO was the consultative contact?

Mr Maroosis: Specifically I wouldn't say that we're feeling left out of the current shift in government policy. However, these are regulations, not statutes. The regulations committee can sit down and decide tomorrow that it's 70-30 or whatever it is they please. For example, currently we enjoy 100% coverage of our costs to some-

body moving in from out of province. We don't know what the government is going to do and currently it could sit down, and, through regulation make whatever determination. We're talking very much about the future; that concerns us. On the consultation process with the association, I really don't have any comment.

Mr Kormos: Similarly, the act permits the government to make the municipality the service provider or simply to bypass the municipality and create another delivery agent, yet the municipality obviously is still on the hook in terms of cost. That could be a private or a quasi-private delivery agent. Do you have any views on that? Because that takes you out of the loop even further. You're still on the hook in terms of paying, but it's a delivery agent that isn't even the municipality; it's potentially a private delivery agent, to wit, Anderson Consulting.

Mr Maroosis: Our expectation, because we've been negotiating with the Nipissing district and we've even talked to the district of Parry Sound — we recognize there is going to be a larger delivery service agent. We're hoping the government will adopt many of the rules similar to what exist now in the district social services boards. We want to be sure specifically for the city of North Bay that the urban area is not unduly taxed in these arrangements, and of course we would like to have consultation in what makes sense. The old political boundaries, whether you're a district or whatever, make very little sense. It's market areas that you can serve effectively to people that have to be considered in setting up these delivery service agencies.

1530

Mr Carroll: Thanks for your presentation. Just a couple of quick questions. For 60- to 64-year-olds, in the current system if you're on general welfare assistance and you turn 60, you then become classified as disabled. Do you think that's fair?

Mr Maroosis: I think, Mr Carroll, it's no more unfair than expecting a 62-year-old — when you consider who these people are, it could very well be someone's mother who is now widowed and of course didn't have much Canada Pension. We know that most of this is Canada Pension top-up, and to have expectations that a widow of age 62 who has no job experience and has raised a family, and is getting a top up to Canada Pension be sent to Ontario Works, really I think that's very drastic.

Mr Carroll: So you think it's fair then, when someone turns 60, to say, "You're now disabled"?

Mr Maroosis: Of course that was the province's jurisdiction, not ours. I think they should probably be put under a provincial pension of some sort.

Mr Carroll: The second quick thing: The narrow definition of "disability," then moving more people over on to municipal caseload, do you want to clarify what you mean by that, how what you believe is a narrow definition of "disability" would do that?

Mr Maroosis: Yes. Currently under GWA we do not see disabled persons. In fact we would move them over to family benefits or to a vocational rehab unit that currently exists. Our understanding is that the definition is going to

be narrowed, and so we are going to have more cases than we would have had if the status quo were there. In actual fact, when we're doing our estimates, we're going to have more people to serve and more cost to the municipality.

Mrs Pupatello: I very much enjoyed your presentation. What is the tax implication for your property taxpayers with these costs you've outlined? As a percentage, what are you expecting as an increase?

Mr Maroosis: We're going on the Premier's pinkie promise that there is going to be no immediate tax implication. That's why we used the term "long-term costs."

Mrs Pupatello: Have you identified information I'm not aware of regarding access to a fund?

Mr Maroosis: We understand, and we have been told, that there are several funds the government has that will help to put equity so that the municipal taxpayer doesn't initially suffer. We're also aware of the fact that the government is going to expect certain efficiencies. Our other big concern is that when they keep all the regs to themselves and don't consult with us — and we're the front guys. I'm going to have to take the flak as an elected municipal representative as taxes go up.

Mrs Pupatello: Have you calculated that? With no funding, assuming you don't access these funds, because none of us are aware of criteria of how you would be eligible for this supposed fund that they've spent about 10 times —

Mr Maroosis: The worst-case scenario —

Mrs Pupatello: Excuse me. Can you tell me if you've calculated what your percentage increase on property tax would be today?

Mr Maroosis: Our worst-case scenario, which was published in our local newspaper by the mayor when we got, not these figures but the previous figures, was in the neighbourhood of between 20% and 25%. We have been assured by the Premier and the minister and a multitude of other people that this isn't going to happen.

Mrs Pupatello: Can you tell me how you feel as a municipality, if you sense any discrimination that another urban centre, like Toronto, gets to share costs with their suburban counterparts but North Bay doesn't, at least at this point? You don't cost-share these services, but GTA gets to share. You've indicated in your brief that you feel it should be shared, which is really the whole point of why they should be provincial programs and not property tax programs. In essence you have one urban centre that gets to share, and North Bay, home of the Taxfighter, doesn't get to share.

Mr Maroosis: Of course, I'm aware of the arguments of the pooling and that the 905 guys aren't very happy these days. In North Bay our expectation is that we're going to have a large service area that will include many of the rural areas. Our concern is that this geographical area be, in reality, a realistic area, because if they just pick Nipissing, for example, and they exclude any possibility of Parry Sound coming into our service area — for example, it's built right up to Parry Sound, and then you go into Parry Sound, we have the town of Callander and some more densely populated areas there in East

Ferris. They derive a lot of services from the city and they haven't been paying.

The jury is out on this one. We're going to have to wait and see what the geographic boundaries are and I'm sure we'll have much to say about that if we have an opportunity.

The Chair: Thank you very much, Councillor Maroosis, Mr Hill, for being here. It's nice to hear from North Bay city hall.

Mrs Pupatello: Chair, could we ask for unanimous consent for 10 more minutes to question this group?

The Chair: Is there unanimous consent? There is no unanimous consent.

DISABLED WOMEN'S NETWORK, ONTARIO

The Chair: The Disabled Women's Network, Ontario, Deborah Ullman. Ms Ullman, thank you very much for being here. We look forward to your comments. You have 20 minutes.

Ms Deb Ullman: I'd like to say that I'm here representing Disabled Women's Network, Ontario. There were many views that were brought forth in respect of the Ontario Works Act, but certainly 10 minutes isn't going to cover it, so we're concentrating on —

The Chair: Ms Ullman, you have 20 minutes.

Ms Ullman: I was told 10 minutes and 10 minutes for comments.

The Chair: No. You can use your 20 minutes any way you wish.

Ms Ullman: I'll just go with what was written here.

DAWN Ontario is a province-wide organization for women with all types of disabilities. We are a feminist organization which supports women with disabilities in our struggle to control our own lives. We believe women with disabilities have the right to direct our own lives. We believe women with disabilities have the right to access services and supports available to all women, know best what our needs are and have a right to freedom of choice in all aspects of our lives. That is why we're here today.

First, we would like to say that we are pleased the public hearings are taking place regarding these proposed changes. There was concern that was not going to happen. We must admit we have numerous questions about the proposed changes, especially in regard to the ODSP.

At DAWN we keep current on issues facing these women with disabilities, provide mentorship to young women, develop numerous resources, support DAWN groups across the province, speak for the rights of women with disabilities, and I suppose most importantly today, we lobby the government on issues affecting women with disabilities, issues such as employment, advocacy, training, education, transportation, housing, health care, etc.

DAWN Ontario has some serious concerns regarding SARA, which includes the Ontario Works Act and the ODSP. We are concerned as to how these changes will affect persons with disabilities who are currently receiving GWA, FBA and VRS supports. We are concerned how

things will change and what will happen. There are many instances that can affect what happens due to how the act will be interpreted or acted upon. We find the vagueness of the act a frightening situation as it leaves much room for individual interpretation.

From our understanding, ODSP income supports will provide income support and employment support to eligible persons. I'm not going to read through the listing of this because I'm sure you're quite aware what the criteria are. So what does all this mean? No one is quite sure who will be considered under these criteria. It all depends how strictly this is interpreted.

The Minister of Community and Social Services, the Honourable Janet Ecker, has indicated that all persons currently receiving FBA because of being disabled will be transferred or grandfathered on to the new ODSP, but what about the future? Will reassessment find them ineligible? What recourse will these folks have then?

It is also important to understand that a person's impairment and eligibility will be determined by a prescribed person who is appointed by the director. This appears to mean that one can be assessed by other health professionals besides doctors. Persons who are receiving FBA because of additions of alcohol, drugs or chemically active substances other than substances authorized by prescription will no longer be eligible under the new program.

What about persons who do not realize they have a mental health or psychiatric disability? There are many who are masking or dealing with their situations via drugs or alcohol as they have not been subjected to diagnosis regarding having a mental health condition. Many, if not most, will at some time be receiving assistance again under the new act because it will be found that they, too, will need possibly more services and support than they ever received under the current system. It is quite possible that disclosure and recognition regarding these unseen disabilities will flourish. In other words, there's a good chance this is going to backfire on the government of Ontario, in that actual illnesses will then have to be dealt with, not the secondary symptomatology.

We at DAWN also have a problem regarding the process by which the government of Ontario has determined the new definition of "disability." By whose authority have they been able to change the definition? Is this not an unconstitutional process?

In respect to guardianship of property or trustees appointed by the director to act for a recipient of ODSP, we have the following concerns: How will the director decide who should get their income and who should not? How will the director decide who the appointed person will be? If the person appointed to handle the income does not disclose relevant information to the case worker, the recipient will be responsible for any overpayments or failure to disclose changes in rent, family, etc.

1540

A person appointed to handle ODSP income will not receive any compensation for doing so. The director may also decide in some cases to pay a portion of the income directly to the third party, for example, a landlord, for

costs relating to basic needs and shelter, if the director decides that the recipient is not acting in a responsible manner. It is important to note that these decisions to appoint a third party to handle a recipient's income or to pay for shelter or basic needs costs cannot be appealed to a tribunal. How is it that the appointed guardian or trustee will not be responsible for overpayments if they are the ones managing the funds?

Liens on property: It states that the director shall in prescribed circumstances, as a condition of eligibility, require a recipient or dependant who owns or his interest in property to consent to the ministry having a lien against the property, in accordance with regulations. We have been informed that this was an error and should have not been included in the ODSP and will be removed. We are here to make certain that in fact it will be removed.

With respect to the ODSP employment supports, once again we have difficulty knowing how the wording in the criteria will be interpreted. What does "competitive employment" mean? Does it mean working for pay? How many hours are considered competitive? We at DAWN are united in opposition to workfare. People need real jobs for real pay.

How about education? What will be considered as an educational plan with competitive employment goals? What about persons who are very limited in the number of courses they can take or the number of hours they can work? What about persons who have many barriers to competitive employment? Will this deal with individual abilities? What may be competitive to one person may not be competitive to another. These are just a few things to think about.

We demand that there be consumer consultation and representation in the formulation and implementation of employment supports. To date VRS has been a dismal failure with respect to assisting persons with disabilities in finding meaningful work. Just because a person has a disability does not preclude them from being viable and contributing individuals in our society. The charitable notion of assistance must stop. The notion of "permanently unemployable" is disempowering and does not offer hope to persons; it only assists in reminding the disabled that they are not wanted or required in society.

Real solutions need to happen. This is only going to transpire if people with disabilities are consulted about their needs and how the present and consequently possible new system are presenting barriers to meaningful employment.

With respect to the suspension of employment supports, we are concerned that employment support decisions cannot be appealed to the tribunal and that a person has an option to enter into a service coordinator dispute resolution process. It is mandatory for service coordinators to have this dispute resolution process in place.

Lastly, on the issue of employment, we at DAWN are partners with OCAB, which is the Ontario Council of Alternative Business, and NEORAD, the Northeastern Ontario Regional Alliance for the Disabled, formerly PUSH Northeast, in the formalization of a new business

entitled Abilities Unlimited. It will be operated and controlled by persons in the cross-disability community.

The development of this business venture has come about specifically because consumers have organized to take control of their lives with respect to meaningful employment and have been sorely assisted by the present VRS-FBA system. People want an employment system that focuses on employment, not rehab. This business will employ a large number of persons with disabilities in the Sudbury area who have not received any substantial assistance in obtaining meaningful employment based on their abilities.

Abilities Unlimited recognizes the needs of this community of individuals and is prepared to work within the context of limitations faced by each and every individual, and to incorporate what is necessary for participation within the business itself.

For example, some persons may only be able to work one to two hours per week. This will be understood and the individual will not be forced to work additional hours, nor, if they are sick and cannot work, find they do not have a job to return to when they are able. Persons will receive support and necessary training relevant to their individual situations. They will not be directed to undergo training in, for example, horticulture because there is an opening in a college program that has to be filled, regardless of the fact the person has environmental sensitivities and is allergic to numerous plants. These things really do happen.

Abilities Unlimited has a phenomenal skills base, solely found within the community of persons with disabilities. They do not need to be directed by those who think they know what's best for them. What people want is practical pre-employment and on-the-job supports that would help them enter the labour force, whether it be for the first time or re-entrance when their situation changes. Abilities Unlimited will be there for them, and hopefully the government of Ontario will take notes on how the process supports, encourages and assists the empowerment of individuals with disabilities to be viable and integrated persons in the community.

The Chair: We have two minutes per caucus. We begin with the Conservative caucus.

Mr Carroll: Thank you very much for your presentation. I just want to clear up a couple of issues for you, and it may set your mind at ease a little bit. When you talk about people who are grandfathered on and what would happen when they would be reassessed, they will not be reassessed except under one condition, and that would be if they left the Ontario disability support plan for a period in excess of 12 months because they had found a job. Then, if they came back on, they would be reassessed, but anything less than that, they will not be reassessed. Their qualification as a person with a disability will never be challenged when they move to the new plan.

You talk about competitive employment. Let me read for you quickly what we have in our briefing binder that all members of the committee have about competitive employment. It refers to "the ability to earn income at a

level that helps to increase a person's independence." It could mean "traditional waged employment, self-employment or a community-owned business. It includes both full-time and part-time work and would recognize that due to the nature of some disabilities, some people move in and out of the labour force."

Just a couple of other things: You talk about the VRS having been a dismal failure in respect to assisting persons with disabilities to find meaningful work. We couldn't agree with you more, and that's why we're going to change that program. I compliment you, as I did Ms Warf this morning, on the great initiative you folks have going in Sudbury. I think it sounds wonderful, and hopefully it's a big success and a harbinger of good things to come.

The notion of permanently unemployable — we agree with you — that's gone from any talk in our new act. We have listened to what the people with disabilities have told us, and we have made some changes that hopefully will address their needs better and allow them to live their lives with more dignity in the future.

The Chair: I am going to pass it to Mr Kormos for the NDP, and then we'll come back to Mrs Pupatello.

Mr Kormos: Unfortunately, when the government repealed the employment equity legislation, which was imperfect but none the less something, they shut the door on a whole lot of people.

You raised the issue of the transfer over from FBA to the new legislation, and Mr Carroll — you see, he reads the briefing notes. You've got to read the legislation, not the briefing notes, because I have read the legislation. He wants to pretend that appendix D deals with the transfer.

Let's take a look at what it says. Subsection 6(1) says a person who is under FBA then becomes, when FBA is repealed and the Ontario disability support program becomes effective, a member of a prescribed class under subsection 3(1). You go to 3(1) and you realize that the prescribed class is somebody who, in addition to people who are otherwise eligible, can receive the disability support. However, you take a look at subsection (2) and it says, "If subsection (1) applies to a person, the person shall continue to be eligible for income support as long as the person is otherwise eligible for it."

It doesn't restrict itself to saying "is otherwise, to wit section 5, the income requirements, eligible," it says "is otherwise eligible for it." That takes us back not only to the income requirements but also to the section 3 disability requirements.

Mr Carroll may want to think that provision, subsections 6(1) and 6(2) in schedule D, provides for the transition the way he is speaking to it. If that is the case, we should see an amendment that specifically excludes only those people who don't meet the income requirements, because it says "as long as the person is otherwise eligible for it," and eligibility deals with the definition of "disability." I hear what Mr Carroll is saying, but the bill doesn't say it. His briefing notes say it, but that's not the act, and we had better see some amendments there, Mr Carroll. Please, if you mean what you say, then say what you mean.

Mrs Pupatello: On your comments regarding the voc rehab, can you share with me your vision of a privatized voc rehab and how it will benefit individuals?

Ms Ullman: That frightens me, for one. The whole idea of looking at every individual from a rehabilitative perspective is probably not a necessity. There are numerous people with disabilities out there who already have numerous skills, who are already able to do many things. But they go into VRS under the auspice that they are to be changed, that something has to be done to them as opposed to for them.

I'd like some clarification regarding what you mean by privatized voc rehab.

1550

Mrs Pupatello: This bill is allowing a delivery agent to be selected by the government to give those services, which allows for it to be bid on, tendered, and obviously private firms, most of them American in nature, coming in and taking over. So people are (a) paid less and (b) if there's a profit involved because they're a for-profit company, then the profit is actually money that's not spent on the client. I just thought they were taxfighters. I don't understand. They are going to give money away instead of using it for the actual purpose, and that's allowed in this case.

When you're a private company, you have to make your money somewhere. You're going to want the easiest case. You don't want the hard cases, the people who are really hard to help employ or offer employee supports; you want the easy ones — because we don't know how they're being paid. Is it on a per-head basis? As many as I can employ I get money for? Is it on a time, an hourly basis? But they don't want the hard cases. When you're private, you're driven by profit.

Our concern is that there is no protection, frankly. Certain private companies will come in, tender and win the bid because they're not subject to potentially the same level of wage, and the very people they purport to help are the same people who won't get the service that in some cases, as you point out, could be improved now.

The Chair: Ms Ullman, I want thank you very much. Unfortunately, we are out of time. But we do appreciate your coming here today on behalf of your organization and putting forth your views.

DISABLED PERSONS COMMUNITY RESOURCES

The Chair: Could I ask for the Disabled Persons Community Resources, Teena Tomlinson and Sylvia Picciano. Welcome to our hearings.

Ms Teena Tomlinson: I'd like to start by introducing myself. My name is Teena Tomlinson. I'm the executive director at Disabled Persons Community Resources in Ottawa. I'd like to thank you for the opportunity to present this very important information here today. I'll hand it off to you.

Ms Sylvia Picciano: My name is Sylvia Picciano. I'm the community resource development coordinator at

Disabled Persons Community Resources. We are here today from Ottawa representing Disabled Persons Community Resources, also known as DPCR. DPCR is a community-based, consumer-directed organization with the objective of promoting independent living and facilitating the participation and integration of persons with physical disabilities in the Ottawa-Carleton region. DPCR is an organization comprising people who have a firsthand understanding and knowledge of the needs of persons with disabilities and of what programs will or will not meet those needs. Directed by the community, DPCR works collaboratively with a network of persons with disabilities, family members, disability organizations and social service organizations.

Although there will be persons for whom this act will be an improvement, we will present only some of our concerns. In particular, our concerns with Bill 142 focus on the Ontario Disability Support Plan Act, which we will refer to as ODSPA, and how the reform objectives proposed in this act will affect the lives of persons with disabilities. As a community-based organization servicing persons with physical disabilities, we have been closely tracking the development of ODSPA and have been carefully listening to the concerns of persons with disabilities served by us, their families and the community as a whole.

A key issue related to ODSPA is who will qualify. It appears that if an individual qualifies as a person with a disability under Bill 142, then that individual can receive both income support and employment support. The concerns voiced by the community indicate a belief that eligibility as a person with a disability will be significantly restricted under ODSPA. Confusion exists in clause 4(1)(b), which reads as follows:

"The direct and cumulative effect of the impairment on the person's ability to attend to his or her personal care, function in the community and function in a workplace, results in a substantial restriction in activities of daily living."

The meaning of "direct and cumulative effect of the impairment" is open to interpretation. As well, many questions have been voiced concerning the parameters which will define the term "substantial" in this subsection of the definition. It is essential to have clear definitions of any such statements and words used in the act. The use of the word "and" instead of "or" indicates that all three components must be present in order for an individual to be deemed a person with a disability. If, however, the individual's impairment does not result in substantial restriction in all three areas described in this definition, then the individual may not qualify for income support but may qualify for employment support. This individual will see a significant drop in income, potentially a loss of \$400 per month.

It appears under subsection 4(2) that how a disability is acquired can cause a person to become ineligible for income support. This subsection specifically states that persons with disabilities caused by the ingestion of "alcohol, a drug or some other chemically active sub-

stances...unless...authorized by prescription" are excluded from receiving income support.

Let us imagine for a moment a 23-year-old male is involved in a motor vehicle accident breaking his neck, the result being total paralysis from the neck down. Upon arrival at the hospital, blood tests reveal that this individual was well above the legal alcohol limit. The act, as it reads, would exclude this individual from income support, as his disability could be deemed as a result of the ingestion of alcohol. We ask that you ensure the regulations for Bill 142 take into consideration this type of scenario.

Part II of schedule B speaks to issues surrounding income support decisions, internal review and the appeals of those decisions. While some decisions made by the director — defined as the "director of the Ontario disability support program appointed by the minister" — appear to be final and may not be appealed, some decisions made by the director may be appealed to the tribunal, but with some exceptions.

According to subsection 21(2), "No appeal lies to the tribunal with respect to the following matters:

- "1. A decision respecting discretionary income support.
- "2. A decision of the Lieutenant Governor in Council respecting income support in exceptional circumstances.
- "3. A decision to provide a portion of income support directly to a third party.

"4. A decision to appoint a person to act on behalf of a recipient.

"5. A variation, refusal or cancellation of income support caused by an amendment to this act or the regulations.

"6. A prescribed decision."

The confusion over such statements can only lead to the conclusion that the appeals process is severely limited. The act appears to turn income support into a loan for any person with assets. This means that persons with disabilities can be required to allow the ministry a lien on their homes in order to be eligible for their disability income. This also has serious implications and appears to cause considerable concern for the families of recipients of income support. It appears that persons with disabilities can lose the right to control their own finances, seemingly without appeal. A trustee can be appointed in order to assist an individual receiving benefits, without the recipient's consent, if the director of the program considers the recipient not capable of money management. An individual's income can be redirected, without the individual's consent, to pay third-party costs, such as rent. No appeal of these decisions is permitted.

What would happen if a single parent of a two-year-old child, who is actively employed and who owns a home, became disabled from a stroke and was no longer able to work? This family now becomes dependent on some form of social assistance. This individual has another stroke, resulting in death. Who would have the right to the proceeds of the sale of the family home, the Ontario government or his orphaned child?

1600

The third reform objective mentioned in Bill 142 is addressed in the new employment supports program. While

schedule D of Bill 142 addresses the transitional provision for the changeover from FBA and VRSA to ODSPA, it is schedule B, part III, sections 32 to 36, of the legislation that elicits the greatest amount of discussion in the community.

ODSPA links eligibility for employment support, currently referred to as VRS, to a competitive employment goal, removing barriers that stand in the way of an individual's competitive employment.

It would appear that there will no longer be a training allowance for persons with disabilities. This directly affects the families of young adults with disabilities who are graduating from school to the workforce. What about persons currently in the workforce who are emerging from school to the workforce? It also is an area of concern for persons currently in the workforce who acquire a disability and who must be retrained in order to be gainfully employed.

What would happen to a 25-year-old woman, having completed four years of university training, who has commenced employment as a registered nurse? She loses her vision as a result of a domestic accident. She is no longer able to fulfil her duties as a registered nurse. Her skills are not transferable. According to the Social Assistance Reform Act, 1997, would this woman now be considered to be permanently unemployable?

Schedule D of Bill 142 speaks to the transitional provisions made for the changeover from FBA and VRSA to ODSPA. Subsection 6(1) indicates that persons receiving an allowance or benefits under the current act, FBA, on the day part I of ODSPA, 1997 "is proclaimed in force shall be deemed to be a member of a prescribed class under subsection 3(1) of the Ontario Disability Support Plan Act, 1997 for the purposes of income support." Subsection 6(2) indicates that if the previous statement "applies to a person, the person shall continue to be eligible for income support as long as the person is otherwise eligible for it."

These parts of the act seem to support a grandfathering of those presently assessed as permanently unemployable. In other words, current FBA recipients will automatically be transferred to ODSPA, but due to the fact that many of the implications of this bill remain unknown due to the lack of regulations and to the seemingly omnipotent power given to the director of the program, concerns have been expressed as to how long these individuals will continue to receive their current benefits. Once ODSPA comes into effect, new applicants will not be able to qualify as permanently unemployable.

DPCR supports the concerns of persons with physical disabilities and advocates for dignity and equity as well as financial security. We have stated only a few of the concerns discussed in the community regarding ODSPA. We recognize the positive aspects of this bill.

We recommend that the regulations be made public and that they be open to community consultation before final legislation is passed. We very much appreciate the opportunity of speaking before you today.

The Chair: We have two and a half minutes per caucus. We'll begin with the Liberals.

Mrs Pupatello: I enjoyed your presentation. I'd like your comments on this. We're having a bit of a back-and-forth on this grandfathering or grandparenting of individuals once they make the change. My understanding is when something in the past has been grandfathered, it means that the conditions today no longer apply, but since they were in early, it carries on. If the same were true today, they simply wouldn't qualify. In this case we talk about those with a certain level of disability who used to qualify. It clearly implies that the definition of "disability" is going to be more stringent because you need to grandfather. The very fact that they have to grandfather, and we're questioning if that's even the case, indicates that the definition changes and is therefore tighter.

From your perspective, the implication is that, much like we're seeing in other ministries and other functions of the community and social services ministry, you have to be depicted as the most severely disabled. It's a more complete change of attitude and mentality at work in this government than we've seen for many years, probably the 1950s or 1960s, where it isn't a question of, "What are your abilities?" it's "What are your disabilities? How bad off are you?" so you can qualify. We're seeing that mentality as a trend in many programs today under Mike Harris. Can you comment if you've noted that as well?

Ms Tomlinson: One of the concerns we've had from a particular client, for instance, that we've outlined in our longer brief that we handed out was the grandfathering is fine, but if someone is being grandfathered and they are offered an 18-month employment opportunity, then that individual has to risk everything to step outside that grandfathering clause.

Our understanding is that if they move outside the act, then if they're outside longer than 12 months they lose their grandfathering. A person with multiple sclerosis, for instance, a degenerative disability, who knows down the road they will need financial security, would not be able to take any employment opportunity and become financially independent if it meant being off the system for longer than 12 months, because they would risk everything.

Mr Kormos: You addressed the grandfathering and you reviewed the same sections I referred to a few minutes ago. I still have concerns about the language that's used there. Clearly, the new legislation contemplates people no longer being disabled, because section 9 talks about people no longer being eligible, not just because of income but because of no longer fitting the criteria in section 4. It understands that some people are disabled in such a way that no change will ever be possible, others are not, and there's everybody else in between; there's that continuum. I have real concerns about how meaningful the grandfathering is, because it says, "remains otherwise eligible." If it means what the parliamentary assistant says it means, then they can put that in the legislation.

Also, the bill repeals the Family Benefits Act. Real grandfathering would maintain the Family Benefits Act

for those currently receiving family benefits and any new persons would have to apply under the new —

Ms Tomlinson: The ODSPA.

Mr Kormos: Yes, the ODSPA, another acronym. That would be real grandfathering, but this act repeals the Family Benefits Act. I'm nervous about it, because I'm a little cynical about these guys anyway; you understand that.

Ms Tomlinson: Individuals currently on Gains-D, the disability pension, are concerned about the lack of information that's available regarding the grandfathering. It's hard for them to accept something if they don't know what they're accepting.

Mr Kormos: We're trying to flesh it out here. It's like pulling teeth. Administer some Novocain, Chair.

Mr Carroll: Thank you for your presentation. Let me quickly clarify some issues. You're right about the "disability" definition, and the minister has stated that she does intend to clarify that.

The alcohol and drug issue: The case you point out, where somebody has an accident as a result of being impaired and then becomes disabled, they're disabled and they would qualify under the definition.

Ms Tomlinson: But who's going to make that decision?

Mr Carroll: Whoever would assess them. The fact that they got into an accident — whether they were drinking or not drinking is totally irrelevant.

Ms Tomlinson: The act doesn't say that.

Mr Carroll: The act talks about being disabled, and if we need to clarify, we're talking about alcoholism as the only problem.

Ms Tomlinson: We're talking about a public servant five years down the road reading the act and interpreting it.

Mr Carroll: I understand that. I did want to talk to you about your concern about the regulations. Do you have the two current acts?

Ms Tomlinson: No, we don't have a copy of the second reading.

Mr Carroll: No, here are the two current acts.

Ms Tomlinson: Yes, we have a copy.

Mr Carroll: Everything, including the definition, is in regulations, so we've put a lot more into the act.

I just want to cover a couple of other points. The whole loan thing is a misinterpretation. There's no intention for people who are disabled to put any liens on their primary residence. We've stated that unequivocally and we will make sure that is understood when the legislation is finalized.

Ms Tomlinson: Would you direct me to where that's stated?

Mr Carroll: As we say, that has been stated publicly by the minister on many occasions. The final product that we see will reflect the fact that that is not our intention; it's not the spirit of the bill.

The other thing, about the vocational rehab service, is we're going to put an awful lot more money into it. The previous lady from DAWN said VRS has not worked to

rehabilitate anybody. We understand that. We're going to change it so it serves the people it needs to serve better.

Ms Tomlinson: I don't know that I agree with some of what was said earlier, though. VRS has worked wonderfully for some of the clients we've served in re-educating which —

Mr Carroll: There's obviously a difference of opinion. 1610

The Chair: Thank you for coming here from Ottawa and sharing your views with us.

The Canadian Hearing Society, Marc Serre.

Mr Kormos: While these folks are getting settled, what progress has been made on facilitating deaf persons who wanted to come as observers and listeners throughout the course of this week's hearings with interpreters here at the committee?

The Chair: We certainly spoke about it in Toronto. I'll ask the clerk to speak to that.

Clerk of the Committee (Ms Tonia Grannum): The committee has authorized the reimbursement of sign interpreters. The Canadian Hearing Society were to arrange the booking of the interpreters and they said they would. I gave them our itinerary so they'd know what our schedule was, and whenever they had any available they would come.

Mr Kormos: Thank you, Madam Clerk. Chair, the reason I raised it, I understood we were going to accommodate deaf people, notwithstanding that a group representing deaf persons' interests wasn't necessarily making a presentation.

The Chair: That is the understanding.

CANADIAN HEARING SOCIETY

The Chair: Mr Serre, welcome. I will ask you to introduce your copresenters.

Mr Marc Serre: My name is Marc Serre, the regional director of the Canadian Hearing Society. I also have Kim Scott, who's a deafened person, and Owen Ward, who's a deaf person, and we have Wanda Berrette, who is standing at the present time.

We do not have the services of an interpreter for the reasons that Peter mentioned earlier. Because this was the responsibility of the Canadian Hearing Society, I had reserved my staff interpreter and she was called out on an emergency last night for a deaf person in Timmins. I spent the whole day on the phone. Our head office was on the phone this morning to try and find a freelance interpreter to be present. We have approximately 16 deaf people. My written statement will be interpreted by a deaf person, Wanda, because she has the notes in front of her.

While the two deaf individuals will be presenting, I'll be voicing and Francesco will try and facilitate the conversation. It does raise a point that I strongly feel the committee should make — I talked to Gary Malkowski and it was not his intention to book the interpreters himself. We'll look at that at a later point. I don't want to focus on that right now because we have some more pressing issues to look at.

The Chair: Just to clarify that the committee's understanding, as a result of the presentations in Toronto, was that the Canadian Hearing Society would be responsible for the booking. Gary Malkowski told us his person would be doing the booking and we relied on that. Unfortunately we've had some difficulties. If there has been a misunderstanding, then I think we need to clarify for the remainder of the hearings. But that's certainly the understanding of the committee to date.

Mr Serre: We also had the date a few days ago and we only had the time on Friday. Yes, there are maybe some communication issues with Gary. I talked to him this morning and North Bay has no interpreter, no note taking. That isn't available in the city of North Bay. I have one interpreter for Timmins, North Bay and Sudbury who is available. Because of the short time frames —

The Chair: Without wishing to belabour the point, the committee wasn't aware of any of this. We just assumed it would be taken care of. We hope it will be resolved for the next presentations that we have in other cities.

Mr Serre: Yes, in southern Ontario there's more availability of interpreters.

I am responsible for three offices with the Canadian Hearing Society here in northern Ontario: Sudbury, Timmins and North Bay. Through our regional offices we're servicing most of northern Ontario.

The Canadian Hearing Society is pleased to support the intent of Bill 142, the Social Assistance Reform Act; also the Ontario Disability Act, which would be proposed at a later date. We believe that CHS has an important role to play in providing specialized services under Bill 142. Deaf, deafened and hard-of-hearing consumers value the service that CHS provides. CHS has fully trained counsellors and other staff who can communicate directly with consumers.

In addition, some staff are themselves deaf, deafened and hard-of-hearing consumers who have experienced the difficulty of conducting a job search and know the barriers that most have to overcome. Further, new barriers such as technology, physical work environment, contract work are making it more difficult for deaf, deafened and hard-of-hearing persons to be trained, hired and promoted on individual merits. CHS has experience in helping people overcome these barriers through its specialized service.

Therefore, the Canadian Hearing Society is supporting Bill 142, the proposed Social Assistance Reform Act, but with some reservations. At this time I'd like to ask Kim Scott to speak. She's the president of the Canadian Hard of Hearing Association and is also a deafened person.

Ms Kim Scott: My name is Kim Scott. I'm deafened with a cochlear implant. I was raised hard-of-hearing and eventually my hearing deteriorated over the years to the point where it became profound in 1991, and in 1995 I had surgery and had a cochlear implant. Since 1993, I have been in post-secondary education and have been sponsored as a client through VRS services. I have been successful in the university studies in most cases because of the services VRS has been providing for me.

I require a computerized note taker to be able to understand anything that is being said in the lecture setting in the university and in the laboratory setting or anywhere in the university setting and the college. It's very expensive to have these services. I understand the cost to the government and to the our society as a whole is very great to provide services and special needs for people who have a hearing loss so that we can further our education. But it is a necessary accommodation, because without it we cannot become individual, self-supporting and functioning contributing parts of our society.

I can be successful. I wish to become a teacher for the deaf and the hard-of-hearing. Right now I have two more years to go. If my VRS services are not continued, I will not be able to continue in the university setting. Unfortunately, in this province university and colleges are not accessible to the disabled community, not just the deaf and the hard-of-hearing and the deafened, but other disabilities also. To believe that the colleges and universities will be able to handle this problem of providing post-secondary education to people with hearing loss is a fallacy.

I have lived this; I experience this every day right now in school. In fact I have a formal letter of apology from Laurentian University for their lack of accommodation for me while I have been there as a student. It is a reality that the universities and the colleges are not able to accommodate us themselves and the services of VRS are necessary.

The other issue I'd like to address here is concerning people with disabilities and who is going to assess these people, who is qualified to assess one person from another and what services they will need. You cannot compare one individual to another. It's important that every person be assessed individually. Currently, under the Ontario disabilities plan for permanent pension, deafness is not considered a permanent disability.

I question this and I question who assesses this, because I know in my life as a deaf person that without any post-secondary education or training I'm a permanent ward of this state. I'm hoping this committee will be able to see that these services are needed and essential for the deaf so that we can be self-functioning parts of our society.

1620

Mr Owen Ward: My name is Owen. I am deaf and a resident of Sudbury, Ontario. I am here today because I have a few concerns with your Bill 142.

I appreciate that the government is considering an Ontarians with Disabilities Act, but I'm here today to express the deaf perspective of northern Ontario. In the north, we always have challenges filling professional appointments, and from a deaf perspective the ability to fill vacancies with people who have some knowledge of hearing loss is even more limited.

In reviewing Bill 142, I wonder how participants will be assessed for the ODSP. These people will be entrusted with making crucial decisions about varying degrees of hearing loss. To be able to truly assess functional loss, especially social and vocational, is in itself a broad spectrum that will not be easily evaluated by any one individ-

ual. Further, if the evaluator does not truly understand the ramifications of varying degrees of hearing loss, the actual impact on the individual may be wrongly assessed.

I urge you to set up your structure with caution to the special needs of deaf and others with hearing loss.

Further to Bill 142, I would like to address to you what ODSP will mean in regard to employment. Many deaf and persons with hearing loss experience discrimination when it comes to obtaining employment.

I moved to Sudbury a year and a half ago and only obtained employment this fall. I am a person with a lot to offer. Many cannot see past my deafness. Measures need to be taken to ensure that the deaf who want to be self-sufficient are not discriminated against in their search for employment. Mass public education and support from Bill 142 could change the possibility of employment for many.

Many people I have encountered feel that if they write to me or exaggerate their lip movements, I will understand. In fact, these are the worst accommodations for me. True, I understand the English language, but ASL and its grammar are my first language. Lip reading unfamiliar faces is not easy. The public, employers included, do not understand our abilities or our disability. We need consideration and assistance to further our education and employment opportunities. Please do not forget our unique perspective.

Presentation continues briefly without interpretation.

Ms Wanda Berrette: I am deaf and a graduate of Gallaudet University. As a spokesperson for the Sudbury Association of the Deaf, I am not only representing my experience but the views and concerns of the deaf in the northern region.

It is of the utmost importance that additional funding continue to be provided to the deaf in order to attend Gallaudet University, Madonna College or NTID. All these specialized education institutes exist in the USA. There is no Canadian equivalent. For these educational institutes, tuition fees are higher and in American dollars. The students must travel from Canada and find living quarters in the States. When the deaf graduate from a post-secondary institute, we are much better prepared to integrate and take meaningful places in society.

There is another side of the educational perspective, particularly for deaf residents of the north. Many require upgrading before they can go on to a post-secondary education. A portion of the northern deaf community requires FB assistance because they were not sent to institutional schools for the deaf when they were young. As a result they lack the independence, skills and literacy because they stayed home with their parents and they did not receive adequate education. These people need upgrading, computer skills and employment skills. If they are not so provided, they will be unable to escape being welfare-dependent. These opportunities for self-independence will be extremely limited if sign language interpreters, note-takers and assistive devices are not available.

The deaf, deafened and hard of hearing are always vulnerable when issues of accommodation are raised. In our technological society, even those of us who are successful

require additional educational opportunities to maintain the current skills required for employment. If we cannot be provided appropriate educational opportunities, we will not be valuable employees. We all know it is the employees who can provide their value and skills who are maintained. We are vulnerable always in our employment and our skills because continued education is not largely accessible to those with a hearing loss. Professional development opportunities for deaf employees are often very limited.

Thank you for listening to our concerns. We hope you will understand the impact and the importance of access when considering the final draft of Bill 142.

Mr Serre: Thank you, Wanda.

The Chair: Mr Serre, I should tell you that you only have about two and a half minutes left of your time.

1630

Mr Serre: Thanks. Much of the problem in northern Ontario is the access to interpreter services. Like I mentioned earlier, we have one interpreter available for medical surgery, counselling, psychiatric services and employment, let alone educational opportunities for individuals wanting to attend post-secondary colleges or universities.

Another barrier we're looking at is the community educators and a lack of understanding surrounding deaf issues and the inadequate resources provided for note-taking, FM systems, and obviously interpreters.

Communication: Even under the best of circumstances, an individual who could lip read could probably look at possibly 60% if the best of circumstances were there, that the individual on the other side doesn't lower their head to write, doesn't look away to pick up the phone, just pays strict attention to the individual in front of him. Last week's Supreme Court of Canada decision pretty much assures — basically nine judges have said that lip reading and writing back and forth is simply not a method of proper communication with the deaf. When we're looking at independence issues, when we're looking at individuals taking control of their lives, not having a relative, not having their mother, their father beside them at 20 or 30 or 40 years of age for a medical appointment, or trying to further their work situation as far as advancement, or even obtaining employment, creates some difficulties. We really hope, with Bill 142, that proper adequate provisions are put in place to ensure that FMs, devices, note taking for deaf individuals and interpreters are part and parcel.

The other element we're looking at is that because a lot of the agencies don't deal with this on a daily basis — either the colleges or social services — don't deal with booking interpreters, note takers or deal with the issues of deafness, it's very difficult and puts an extraordinary strain on some of the agencies. The Canadian Hearing Society has been in Ontario since 1940 and we are in a position to provide the specialized service that is required by consumers.

Like I said earlier, we support the intent of Bill 142, but obviously are looking at some adjustments to make sure, whoever you transfer VRS to, the Ministry of Education, for example, that the proper accommodations are

put in place, please. A lot of livelihoods for a lot of individuals depend on this. Thank you very much.

The Chair: Thank you very much, Mr Serre, together with your presenters and your whole delegation, for making the time to come here and share with us your unique experiences and your views.

Mr Kormos: Chair, if I may while our next presenter is getting settled in, this was very dramatically brought to our attention once again: I appreciate that the clerk has said what she's had to say and you've done what you've done, but I thought there was consensus that because of the special nature of this hearing around the part of the bill that dealt with persons with disabilities, the committee was going to have an interpreter at the committee so that deaf persons from the public who wanted to come and listen to what was going on could do that. I thought we had agreed on that.

The Chair: That's correct, Mr Kormos.

Mr Kormos: I understand the difficulties you've encountered. I'm not putting blame — there's no sense in blaming anybody — but can we please do something to try? We're in Ottawa tomorrow, we're in London on Wednesday and we're in Niagara on Thursday. Please, if this doesn't bring the issue home to us, nothing will. What an injustice to our community. Can we try to get somebody out for the next few days?

The Chair: Mr Kormos, what we can do is get back in touch with Mr Malkowski and see what arrangements can be made. That's the understanding we originally had. We'll try and reinforce it for the next hearings.

Mr Kormos: Fair enough. I think we'd all appreciate it.

Mr Serre: Could I have 10 seconds, please? If you could hire an individual freelance interpreter to follow you, then it doesn't come back on my shoulders as director. I spent a whole day trying to find an interpreter because my staff had to go to a medical appointment, and that could happen tomorrow morning in Ottawa. If the staff interpreter is booked — obviously urgent medical situations are unavoidable. If you could get freelance —

The Chair: Mr Serre, this will be the last comment on this. It was the understanding we had with Mr Malkowski and the Canadian Hearing Society that that's what we would have. We are not competent to hire interpreters, therefore we asked Mr Malkowski and he agreed to do it. In fact, he volunteered to do it through his assistant. We were given a name of a person to call, whom we called. That is the arrangement that was supposed to have been made. It did not happen. We don't have the competence to be able to hire anyone. We have to rely on the people with expertise. Thank you very much.

MUSKOKA LEGAL CLINIC

The Chair: Ms Jo-Anne Boulding, thank you very much for being here. We look forward to your presentation.

Ms Jo-Anne Boulding: My name is Jo-Anne Boulding and I'm a staff lawyer at the Muskoka Legal Clinic.

The Muskoka Legal Clinic is a community legal clinic serving the entire district of Muskoka. We have offices in Huntsville and Bracebridge. We practise poverty law, which includes representing recipients of social assistance, which currently includes general welfare, family benefits and voc rehab. We have represented clients in settlements with the local offices as well as represented them at the Social Assistance Review Board and Divisional Court. We have been actively involved in community organizing and have developed an expertise in matters of social assistance law. Local members of the criminal defence bar have also come to depend upon us for our legal opinions and assistance in welfare fraud cases.

Today I am going to focus my remarks to just a few areas of Bill 142. However, I have some initial comments about the proposed act. A general theme that has been apparent in the Common Sense Revolution and this bill is that poor people are not worthy members of our communities. They are often accused, as a class of people, of being cheaters, lazy, poor parents and a drain on the taxes of "contributing" members of our society. The bill is based on the perception that without mandatory welfare requirements, persons on assistance will not try to re-enter the workforce and "get off the system."

It is important that these myths be debunked in order for the government to propose social assistance legislation that provides financial assistance to those members of our communities who are in need. It is important that we start with the thought that none of the people in need woke up one morning and said, "Today I am going to be poor." Poverty is the result of a number of social conditions. Many Ontarians are only a paycheque away from poverty themselves. If we start with the assumption that those in need are quite able to participate in retraining or educational programs and are willing to help themselves and re-enter the workforce, then we can meet the government's need to be fiscally responsible and yet be a caring and inclusive society.

"Families without economic security cannot participate with dignity in the economic, political, social and cultural activities of their communities. By remaining on the edges of society, they are unable to participate in decision-making that affects their lives. The result is a sense of hopelessness and powerlessness that, in turn, generates more insecurity, a repetitive cycle of stress and unhappiness with enormous costs to children, families and society as a whole."

Today I am going to address four main aspects of Bill 142: liens, recovery of overpayments from spouses, police powers of ministry staff and identification and verification.

Liens: Bill 142 sets the stage for a transformation of welfare from a social assistance program to a loan program. This represents a radical departure from the fundamental premises of social assistance. Historically, social assistance payments were not recoverable except in certain clearly defined instances.

Social assistance is a program of last resort for persons who, because of illness, disability, loss of principal family

provider or unemployment, have exhausted all their other resources. The vast majority of people are on assistance because of reasons beyond their control. During times of economic prosperity the length of time for most persons on welfare is relatively short.

During the recent recession that we are still emerging from as far as job creation goes, the length of time on welfare was much longer. Yet while the numbers may vary, most people leave welfare because they have found work. Clearly what we need in this province is jobs — jobs that pay enough so that persons can support themselves and their families. That has been shown over and over again as the effective way to reduce the amount of money spent on welfare and generate healthy, economically viable communities where all members participate.

1640

Liens on properties, we believe, should be removed. It's not appropriate for a social assistance statute. There is no power in the current legislation to place a lien on real or personal property as a condition. We assume this is targeted at homeowners, though on the face of the act it doesn't restrict it to homeowners. Except in unusual circumstances, currently the only real property that a recipient is permitted to own is their principal residence. If you own two pieces of property, you're simply not eligible currently.

Government members have made a number of statements about liens not being applied to primary residences of ODSOA, the disability act, recipients. Again, they can only own primary residences or they're not eligible. But we're wondering if it means that it will be applied to others. In our view, that's a double penalty. People are required to do mandatory workfare in order to pay for being on assistance, but the group will have to pay twice because they will also have a lien put against their property.

Who will be affected by these lien provisions? In 1994, less than 7% of the entire caseload actually owned homes. In order to be able to keep your home, because the welfare rates are so low, it basically means you have a very small mortgage on that house. It means people who are nearing retirement, single mothers who may have got a matrimonial home as a result of a family law settlement, or people with disabilities. Also, in rural areas where there is a scarcity of housing and land is cheap, you may find more homeowners.

The consequences of the lien provisions for single mothers are particularly oppressive. Many of those who have managed to salvage the matrimonial home from a marital breakdown will already be facing property liens imposed by the legal aid plan as a condition of having been given legal aid to obtain the property settlement in the first place. Women who have escaped from violence need some time with their children and often need to be retrained to re-enter the workforce. This provision will leave them with no option but to sell their home instead of receiving assistance or sell their home to satisfy the lien in return for assistance. The only economic security they possess may be their home. Their children have already experienced severe upheavals in their lives as a result of

growing up witnessing violence. A further loss of their family home will likely cause further serious disruptions in their young lives.

We've already stated our opposition to making welfare a loan, but there is further hypocrisy in this section. It's okay for the government to pay billions of dollars to private landlords, but not to the mortgage holder. Remember, if there is no mortgage on the property, then the person on assistance is not getting a shelter portion as part of their cheque. The only shelter benefit they will receive is the amount they actually pay to heat the premises. So we're only talking about people who are receiving money for a mortgage, we assume. It's not stated in the legislation. The issues are left wide open.

Questions we need to answer are, when will the lien be imposed? How much of the amount of assistance will be subject to the lien? They're already subject to mandatory workfare, so they're paying a double penalty by also having a lien on their property. Will the lien include interest? How will it actually be calculated? How often will the liens need to be renewed? Again, informed debate is impossible without information.

We also must challenge the government's repeated assertion that no one will be forced to sell their home to satisfy a lien. Generally, when you renew a mortgage the liens have to be discharged, which means that if you can't discharge it, you may have to sell your property unless you can find someone to loan you a second mortgage to pay off the lien before you renew your first mortgage. As second mortgages have such high interest rates, this pushes people even further into debt.

Overpayment recovery from spouses: We have serious concerns about this proposal. In practice, it means recovering overpayments, made to men, from women. In the vast majority of cases of two-adult households on social assistance, the man is the head of the household and gets the allowance on behalf of the household. Workers almost always treat men as the head of the household. In fact, it's the policy in the vast majority of welfare offices in the province. Women cannot demand to be treated as the heads of households even if they want to be because they need their spouse's consent in order to make the application.

Under this section, a woman will be liable for the entire amount of assistance provided to the family unit whether or not she was responsible in any way for the overpayment and whether or not she received any of the money. Often, women will not even be aware of the circumstances leading to the overpayment or may have been forced to acquiesce to it by threats. She may even have been trying to leave the relationship at the time of the overpayment or may have left since.

The dangers are compounded by the appeal rules. If the former recipient has appealed the overpayment, the spouse from whom recovery is being claimed is automatically joined in that appeal. A woman who has left a violent spouse and is seeking to conceal her location will have to choose between trying to fight the overpayment and possibly endangering her own safety. In fact, the appeals provi-

sion could result in an abusive man being informed of her address if he is given a copy of the notice. This provision must be removed now, before we hear of the tragic consequences on the news.

Eligibility enforcement — EROs in the current system: Even without special powers, the conduct of EROs is often very troubling. The fact that some EROs abuse their power doesn't mean that all do. However, there have been more than just isolated incidents. We have heard of complaints of hounding, harassing and intimidating recipients, especially the vulnerable and developmentally delayed; deliberately lying to recipients so they will confess to their wrongdoing; failing to tell people their decisions can be appealed; threatening people with fraud charges unless they sign; and going to legal proceedings but only bringing forward the evidence that supports the case.

In the district of Muskoka, we have had a number of cases where the ERO behaviour has been highly inappropriate. In one matter, he requested the woman provide him with copies of car ownership and insurance. While she went out to the car to get the documents, he attempted to interrogate her small children as to who was visiting, and did that person ever spend the night.

In another matter, without any consent, an ERO contacted the employer, the credit agency and many others about the recipient's boyfriend. This man did not live with the recipient and he was not in receipt of benefits. The ERO then attempted to deny that he had taken these actions. But the credit agency as a matter of course records the telephone number of everyone who makes inquiries.

In another matter, an ERO obtained information on a landlord from another ministry, circumventing the freedom of information and privacy act, in order to show that he was charging the recipient as much in rent as he was paying to the other ministry. It was not a great surprise to anyone that the landlord was making money. However, the method used to obtain this information clearly violated FIPPA. It had nothing to do with her eligibility either. Further, the landlord was not in receipt of benefits and no consent had been obtained.

As with many other aspects of this bill, we do not know the full extent of the powers to be granted to ministry workers. However, the obvious question to all of us should be, if the police are the appropriate investigators of crime in this province, why are they not the investigators of suspected welfare fraud? Police powers are extraordinary. That's why only they have them. They receive training, know the limits of their powers and know what is needed for the criminal process.

Further, these proposed powers must be seen in the context of the act, which makes it an offence to obstruct an ERO. At least with the police we have their superiors, watchdog agencies and court actions if we feel the police have overstepped their powers. There are also protections, including right to counsel. None of these protections are afforded welfare recipients, or, because of the "obstruct" laws, their families, friends, neighbours, doctors, priests — the list is endless.

The mandate under the legislation for these police powers isn't restricted to investigating suspected fraud. It's for any part of the eligibility, which means that people may be required to release confidential information that has nothing to do with eligibility in the course of an investigation. We know from the practices of the ERO in our area that they will certainly use the existence of the "obstruct" offence to threaten people with such charges.

1650

Again we have the issue of a woman escaping violence, or a marriage breakdown and custody dispute that is nasty, and the effect this kind of power, held by the ministry that provides her and her children with assistance, will have on her life. What kind of information is going to be snatched on this woman? It is very common already for landlords to report their tenants' behaviour to their workers. In the current system, this will usually trigger an investigation and often the cheque will be held until the woman satisfies her worker that her actions have not affected her eligibility. Imagine their power if it is a disgruntled or violent ex-husband that speaks to the ERO.

Eligibility determination: The administrator or director may currently suspend or cancel benefits where a person fails to provide the information necessary to determine eligibility. That's in the current acts. There are already many problems with the administration of these powers. People are frequently cut off or denied because, they're told, they haven't provided enough information. Often they're not told what it is they need to provide. Workers often make continuous demands for information, and once one piece of paper is provided, they ask for the next one. I've had many cases where it's three or four months before you get the initial application finished because every time the client goes back with the one piece, they're asked for another piece.

Both of those incidents were in appeal at the Social Assistance Review Board. The board found that the recipient had provided all the information required, that the administrator had failed to inform him of any problem, and worse, the board found that the respondent's submissions were excuses invented by the worker to justify their actions.

Obviously a delivery system must be able to collect the information necessary to determine eligibility. There is a corresponding obligation on applicants and recipients to provide it. However, Bill 142 goes much further. Welfare recipients need to provide dozens of pieces of documents in applications and just as many for updates. I've had clients every year asked to produce again the same birth certificates that are photocopied on file, as if their child's birthdate has changed somehow in the interim.

Many forms of ID cost money and take weeks to obtain. The only office in the entire north that deals with births and deaths registration is in Thunder Bay. Two people work there. You can apply for a birth certificate and it can easily be six to eight weeks before you get it back, and that's in a straightforward, "Send the \$16 in." If there's any complication, it could take much longer. When you're leaving the house in the middle of the night, in your

pyjamas with a child in each hand, escorted by a police officer to a shelter, the last thing on your mind is, where are the kids' birth certificates?

Many landlords also refuse to provide receipts, so poor people can't give a record of bank accounts and record of payments they may have made. Bank records are very costly to reproduce. Most banks charge by the hour. The applicant doesn't have the money and often the welfare offices won't provide it.

Under this new bill the minister can order workers to demand not only the information necessary but that it must be in the prescribed verification. That means they will list the mandatory documents. This is a problem. I had a case where a man was born at home in rural Quebec. The church he was baptized in was burned to the ground 30 years ago. It took myself and a lawyer in Quebec over one year to register his birth in court and obtain a birth certificate. The court accepted evidence that included an affidavit from his only surviving family member, his brother — he was 64 at the time we were doing this — and a letter from his high school that recorded the years he attended. Under the proposed legislation, he would not have been able to obtain benefits as he could not even prove that he had been born in Canada.

Unlike current law, section 7 allows for no discretion to waive the requirements, no matter how pointless they might be in an individual case. Every delay means the applicant is not getting money. They don't grant you money while you get the documents. The money comes after you provide the documents.

It's our submission that Bill 142 needs to be amended. This is a major change in social policy in this province and much public debate is needed. It's also vital that regulations be made available so that the debate is as fully informed as possible. Thank you.

The Chair: Thank you very much, Ms Boulding, for your very thoughtful presentation. You came in right on time. I regret that we don't have time for questions. Have a safe drive back.

NORTH BAY AND AREA CENTRE FOR THE DISABLED

The Chair: The North Bay and Area Centre for the Disabled, George Livingstone. Welcome, Mr Livingstone. We are happy to have you here with us. You have 20 minutes for your presentation.

Mr George Livingstone: Thank you, but I don't think it'll take 20 minutes to get through it.

The Chair: We'll be delighted to ask you questions.

Mr Livingstone: I'd appreciate that. My name is George Livingstone. I'm the president of the North Bay and Area Centre for the Disabled as a volunteer. The North Bay and Area Centre for the Disabled is a registered, non-profit charitable organization that has been in operation since 1978. The mandate of the centre is to advocate on behalf of all types of cross-disabilities.

Some of the major achievements the centre has been involved in are obtaining free fishing for the disabled;

permit parking in the municipal lots, and this was prior to the government of Ontario's permit parking. Recently we backed an individual who complained about narrow disabled parking spots and time restrictions down at the waterfront. The Ontario Human Rights Commission had to become involved in that to get city council to complete it. Going way back, one year we had a job coordinator and we placed 53 people who were disabled, compared to Manpower's 18, in jobs. A few people are still working in those jobs. Eventually Manpower started to send people to the centre.

The centre is run on volunteer help and one paid employee who coordinates the programs. The centre for the disabled is not funded by any government or agencies. We run various fund-raising activities to keep the centre operating. With new groups being formed daily, we are chasing the diminishing dollar in order to survive. Ten years ago the centre was donating \$5,000 a year to people who were in need. This year it was less than \$500.

The centre is getting telephone calls, letters requesting help and people walking in off of the street. Most of these are not even members of the centre. We have had two requests to help drill a new well; remodel a house to make it wheelchair-accessible, around \$25,000 to \$30,000; requests to repair scooters, wheelchairs; do shoe builds, and the list can go on. The Ministry of Community and Social Services is sending people to the centre requesting financial assistance. Home care is sending in requests regularly asking for financial help for the clients they are serving. We have a loan closet offering wheelchairs, crutches, walkers, canes and bath chairs. Wheelchairs and walkers are the most used equipment loaned out from the centre. Now we only donate to those individuals who are trying to improve the areas that affect all who are disabled.

The centre has a van with a wheelchair lift to transport people who fall in between the cracks and those who have medical appointments out of town, mostly to Sudbury. We have had to restrict our usage due to costly repairs, otherwise we would be travelling to areas like Ottawa, Toronto and London. Also, all our drivers are volunteers.

I had not seen a copy of Bill 142 until this morning as I only noticed the ad in the Saturday, October 11, paper. I hope they have tried to improve the areas that are desperately neglected, such as proper equipment. I have seen people obtain a scooter and have it up for sale within six months because they found it unsuitable for their needs. If you want to see the want ads, they're in the paper of last Friday or Saturday. It's too bad the government would not buy the equipment and retain ownership of equipment until it is worn out. If the person using the equipment found it unsuitable, it could be returned for something that was more suitable within a short time period; say, three to six months.

The centre would like the government to consider us for a project like this, and I believe the government could save a considerable amount of money with a project such as this. I also hope they improve their financial situation,

where they do not have to pawn things to get a few dollars to purchase a prescription.

The most important thing is to find work that is suitable for a disabled individual so they can get back their self-esteem and become a respected citizen within their community. With each person having affordable housing and accessible transportation and the workplace being accessible, I believe that these people would rather be working and paying taxes instead of being a burden on the taxpayers.

Some of the cuts by both federal and provincial governments have set the disabled back by at least 10 to 20 years. Most disabled individuals are not looking for a job. Due to the many restrictions or rejections, they tend to give up in this area. That's my presentation.

1700

The Chair: Thank you very much, Mr Livingstone. We have four minutes per caucus. We begin with the Liberals, Mrs Papatello.

Mrs Papatello: Thank you for coming down today to speak with us. What indication do you have in your brief review of Bill 142 that indicates any sense that the issues that you've brought forward would be addressed by this bill?

Mr Livingstone: Considering I got it this morning in the mail and I've had other things to do — let's go back a bit. A week ago Saturday I saw in the newspaper that there was going to be hearing. I called Mike Harris's office on Tuesday, because Monday was a holiday. They told me I could come in and see the bill or I could purchase one through Publications Ontario.

Mrs Papatello: And that's how you got on this list? Do you have any idea of the people vying to be on this list? You, with a simple phone call —

Mr Livingstone: A simple phone call.

Mrs Papatello: That is something. Good for you.

I have a question for you. Some of the issues that you address are clearly issues that members of the community with disabilities deal with regularly. The way this bill is now, all of the social assistance was separated into several different categories. After this bill is passed, there will be two acts; you are either substantially disabled, disabled enough to allow you to get over the bar and access manna from heaven in terms of employment supports, or you're in Ontario Works and you're working for welfare. Those are the two categories. That's it.

Someone like you, for example — and I don't know your personal history etc — could very well be considered not disabled because you meet lots of criteria. You may be educated, you have worked, you work, you have a job, you don't have any kind of disability that precludes you from employment, and therefore you are not substantially disabled. That is the way it is, and we don't know that it's any different because they haven't given us what that definition is. All we know is, when the new definition of disability comes into being, it's going to be restrictive enough that the government feels they need to grandfather some people in because it's going to change. When you grandfather somebody in, that implies that the conditions

change to be more restrictive. Do you have any concerns about that?

Mr Livingstone: I definitely do, basically because I have come out of the system of working, where I'm now not working. I'm on long-term disability and also on CPP. I think that's due to the disease I had when I was a child and it's got so that I can't work. I can't work a full day. I can't work a half-day. There are some days that I can put in two hours, and the next day or the next week I might be able to work three or four hours, but there's no consistency.

Mrs Papatello: I guess that's our biggest concern.

Mr Livingstone: It's the individual aspect of it that's hard to put into — but for the people out there who are disabled who could possibly be working in a full-time job, there are very few jobs out there.

The Chair: Mr Kormos.

Mr Kormos: Finish that thought.

Mr Livingstone: If you're out there looking for a job and you've been rejected for so long, you're going to give up and say: "I'm going to panhandle on the street. It's quicker."

Mr Kormos: Thanks for coming, Mr Livingstone. I'm glad you got on, regardless of how. I should tell you that my constituency office, unless there's a demand for, like, 100 of them, will pay for the copy of the bill. We wouldn't think of charging our constituents for them.

Mr Livingstone: Let me finish that thought that I did start off about Mr Harris' office, because they told me I could come in and read Bill 142. I told her, "I can't get in there." She said, "If you come up and knock on the door, we'll come and get you," but she didn't say there were two steps up to the door.

So that's Mr Harris's office, but hopefully some day he'll either move into one that's accessible or get a ramp out there permanently. If I have to call before I go someplace, that's my problem right now. I do drive, and if I go someplace, I've got to take somebody with me to get my chair out of the car.

Mr Kormos: You're talking about that broadest issue of accessibility. I'm not going to criticize Mr Harris because, like a whole lot of folks, it was only when activists in our community brought to our attention the situation around our constituency office that we made sure the appropriate — so it's essential that you and others like you, that people hear from PUSH.

What's fascinating, though, is that a couple of weeks ago there was a crisis in Canada, and the crisis was that unemployment stood a chance of dropping below 9%. So you see, the Bank of Canada raised the interest rates because it was unconscionable that we could allow unemployment to drop below 9%. I find this whole discussion of jobs and working and access to the workplace, when we've got a federal government with policies that want to keep unemployment at 9% for fear of inflation — I shake my head. I don't understand.

Mr Livingstone: I look at the Ontario government. When they first came in, they got rid of all the contracts that were out there. I'd say that at least 85% to 90% of the

people who were disabled were working under a contract. They're gone.

Mr Kormos: They got rid of the employment equity bill too. Thanks for coming by.

Mr Carroll: Just a couple of points. Sir, thank you very much for coming out to visit with us today. Obviously your centre does some good work and you're volunteering there, so that's great to see. Are you familiar with the assistive devices program?

Mr Livingstone: A little bit, yes.

Mr Carroll: Currently there's a 25% copayment required under the assistive devices program. Under the new proposed Ontario disability support plan, that will not be there. So if somebody is under ODSP and they need a wheelchair or some assistive device —

Mrs Pupatello: They have to meet the criteria.

The Chair: Mrs Pupatello, please.

Mr Carroll: Can I finish, please?

Mrs Pupatello: Tell the truth, Jack.

The Chair: Mrs Pupatello, you've had your turn. You can speak to Mr Livingstone later.

Mrs Pupatello: Just tell this gentleman the truth, Jack.

The Chair: Mrs Pupatello, you are out of order.

Mrs Pupatello: The parliamentary assistant is much more out of order.

The Chair: Mrs Pupatello.

Mrs Pupatello: You have to tell him the truth. You need to be —

The Chair: Mrs Pupatello, will you please come to order? Thank you.

Mrs Pupatello: That's a significant fact —

The Chair: Enough. Mr Carroll.

Mr Carroll: As I was saying, under the Ontario disability support plan under Bill 142, the requirement for a 25% copayment for assistive devices has been waived, so if somebody needs an assistive device, they will not have to pay the copayment.

It's an interesting idea about how we could somehow recycle assistive devices that people have procured and no longer need. That's something that I think is worth pursuing because there is probably an awful lot of pieces out there that people no longer are using that are just maybe gathering dust in the basement. So it's an interesting idea.

Mr Livingstone: The problem is that they wait five or six years and then decide to give it away. By that time, it's rotten.

Mr Carroll: Just a couple of other points. You state on the last page that the most important thing is to find work that is suitable so that disabled individuals can get back their self-esteem and become respected citizens within their community — absolutely 100% right on with what we agree with. The old vocational rehabilitation system that we had did not function well. We've heard much testimony today to prove that it did not function well, and as a result —

Mr Livingstone: I've been through the system. I know it doesn't work well.

Mr Carroll: Okay, there, you're proof. As a result, we're changing that and putting substantially more money

in and making it much more focused on training as opposed to assessment.

Interjection.

The Chair: Mrs Pupatello.

Mr Livingstone: I don't know if it's all the money that you're looking at, because when I went through the system they told you what you were going to go through for, not what you wanted. They told you what you wanted.

Mr Carroll: That's right. We think that was a very poor focus and we're going to change that dramatically so that it serves the people who need the help.

The Chair: Thank you very much, Mr Livingstone, for coming here today.

Mrs Pupatello: On a point of order, please, Chair?

The Chair: I'll just ask Mr John Hupfield to come forward. Mrs Pupatello, on a point of order.

Mrs Pupatello: I would like some indication from the parliamentary assistant, who gives these kinds of erroneous facts to individuals, like "There's going to be more money." The fact of the matter is, Comsoc has slashed their budget significantly over the last two years. All of a sudden there's more money. We have no indication of that. I want clarification of the fact that in order to not pay 25% through APPD, you must qualify as being substantially disabled first. Individuals such as the presenter may well be among those who do not qualify and therefore cannot access all of those wonderful goodies that you can only get once you get over the hurdle, wherever that bar may be set, which we still don't know because the government refuses to provide us with information.

The Chair: Mrs Pupatello —

Mrs Pupatello: I guess the point is, to the parliamentary assistant: If you insist on giving out information that simply cannot be verified, in fact we don't even know that it's factual —

The Chair: Mrs Pupatello —

Mrs Pupatello: I have to finish my point of order —

The Chair: No, Mrs Pupatello —

Mrs Pupatello: You have to tell us —

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The Chair: Mrs Pupatello, please. This is not a point of order. May I suggest that if you have a question to put to the parliamentary assistant, you do it now, but that is not a point of order. Do you have a question?

Mrs Pupatello: My question to the parliamentary assistant is: Why can he not give us detailed information about the definition of what "disability" is so that, when the parliamentary assistant makes various comments to presenters today and for the next three days, we know that it is factual? Today we have no idea if what he is telling us is in fact the truth.

The Chair: You're asking for a definition of "disability."

Mrs Pupatello: Absolutely.

Mr Carroll: If I could suggest to Mrs Pupatello, as I did in Toronto, this makes excellent reading. The definition is in there, and the answers to her questions are in there. I would recommend that she read it.

The Chair: May I suggest, Mr Carroll, since the question has been put, that the information be provided.

Mr Carroll: The definition is in the book.

The Chair: Just provide it for the record. Thank you.

Mr Kormos: I have a question as well, flowing from Mr Carroll's comments. I darned near swallowed my bubble gum when he talked about all the new money, the additional moneys that were flowing into these programs. I trust that's an announcement he's making. I would ask, please, that he provide us with details of the amounts of additional moneys, the areas in which they're going to be provided and the time frames in which we're going to see those. I think that's a valid question in response to his comments over the last five minutes.

Mr Carroll: I didn't make any wonderful new announcements. I didn't say anything the minister hasn't already referred to, that in the area of employment supports for the disabled, the funding will increase from \$18 million to \$35 million. She has said that on several occasions. It is no new announcement. It is the thing that has been out there for several weeks.

Interjections.

The Chair: One at a time. Mr Kormos.

Mr Kormos: Chair, I very specifically asked for the areas, the amounts and the time frames. I think that's a valid question in response to what the parliamentary assistant had to say. If he wants to throw around numbers like that, let him tell us where, when and how.

Mr Carroll: If I can make a comment on that, in a press release dated June 5, a copy of which is in your briefing binder, Mr Kormos, it gives the exact numbers, from approximately \$18 million today to almost \$35 million when the system is fully implemented.

Mr Kormos: The question once again is, in what areas and in what time frame? The parliamentary assistant wants to play with these numbers, but when the questions start to flow, he fumbles. It don't work that way. If he's going to make these bold statements — and if he doesn't have the answer, God bless, he can phone the ministry tomorrow morning and be prepared to tell us tomorrow what time frame and in what areas.

The Chair: Mr Carroll, what Mr Kormos is asking for is details, not just a global figure.

Mr Carroll: What Mr Kormos is asking for is proof of a number that I mentioned. It is in a press release that was issued on June 5 that's included in his briefing binder. I would recommend very strongly that Mr Kormos read it.

The Chair: Mr Carroll, you've been asked a question with specific request to a number.

Mr Carroll: I gave the answer.

The Chair: The answer is either that there are specifics or there are no specifics.

Mr Carroll: The answer has been given.

The Chair: No, what you have given is a number, \$35 million.

Mr Preston: On a point of order, Madam Chair.

The Chair: Excuse me, Mr Preston, in a moment.

Mr Preston: A point of order —

The Chair: Mr Preston.

Mr Preston: — and that comes, I think, before your tirade as a person who is supposed to be unbiased. I don't believe at this point you are acting in the proper position as Chair. Unbiased, I repeat.

The Chair: Mr Preston, I thank you for your point. However, I'm simply trying to facilitate the process. If you have any difficulties with the way that I conduct the meeting —

Mr Preston: The question was answered.

The Chair: This is not your meeting, and you're not the Chair.

Mr Preston: No. It doesn't matter what Chair it is.

The Chair: With respect, Mr Preston. Mr Kormos has asked for details. What I have asked Mr Carroll to provide is details. He can simply say there are no details. That's all we're looking for here. I am not entering into the debate; I am trying to facilitate and bring this to a head. That's the question that was put.

Mr Parker: Mr Carroll has said he has given his answer.

The Chair: Mr Parker, I'd thank you, please, not to get involved as well. We're trying to move ahead.

Mr Parker: Let's both not get involved.

Interjection.

The Chair: With respect, I realize that the hour is late and people are getting just a trifle cranky, but I'd like to get on with the meeting.

JOHN HUPFIELD

The Chair: Thank you very much for your patience, Mr Hupfield. We appreciate your being here. You have 20 minutes for your presentation.

Mr John Hupfield: I'll be as quick as I can. My name is John Hupfield. I'm here representing myself as an individual. My wife is a manic-depressive schizophrenic. As such, she qualifies under the Family Benefits Act. It's very difficult for me to go to work, under the circumstances. I used to work as an employee for different people. I found it very difficult to cope with the situation at home at the same time. She would be in and out of hospital, she would be under medication. I had two children at home and two children grown up.

About six years ago we reviewed the situation. We thought the best solution was to start our own business — me, in my own backyard. I borrowed money, I took out a second mortgage on the property we're holding. I got a bank loan, a new ventures loan. I built a shop, at some expense, I must admit. I was close to home. I could give my wife the support she wanted. I could ensure that the house was moderately clean. I could involve myself with my children, make sure they were fine.

This worked fine. This was for four years. I actually paid off the new ventures loan. I paid off the bank loan.

Last year, instead of reviewing me on a yearly basis for income to see whether I had made any money, whether it was appropriate that they keep giving us assistance under family benefits for a disabled person, they decided they should do monthly reviews. Under the monthly review,

I'm allowed to earn \$165. This is after my monthly fixed expenses. This is after allowing for advertising and growth, I guess, to some extent.

I felt the guidelines as they were handed down were very inappropriate to our situation. If I wish to reinvest in my business, I have to get permission from a social worker. If I show anything over that \$165, they want to take it back. Last year at one point they actually were seizing money that was set aside for provincial sales tax, because I only pay that every six months. I don't have a lot of income; I do have an income. Primarily up to this point it has been servicing the debt. Now, with these bank loans paid off, I'm hoping I can start to make money.

I think more appropriate than a monthly review, which entails a lot of paperwork for me, costs to the government for them to review it, and arguments, I must admit. This is how I got involved. I kept going back to Ernie Eves's office because I kept feeling that things were inappropriate in the way they were being done. Finally, Pat Tennant at Mr Eves's office in Parry Sound said I should come and talk to you just so there is some input here from somebody who is not disabled but lives with someone who is disabled, who wants to make money, who wants to be progressive, who wants to be something affirmative in society. Instead of making it easier, I find things are much more difficult under the current guidelines.

The business I'm in is mostly in boat repair. It's cyclic in nature, my premium income periods being in the spring and the fall. In the summer I just kind of entertain the guests, as you would call the cottagers, the tourists. In the winter I just work as much as I'm allowed. In my own situation, I tend to make more money in the spring and in the fall, exceeding, obviously, the \$165 in a month. If I'm lucky I break even in the summer; I definitely lose money in the winter. I have insurance bills to pay, which are part of the cost of my mortgage. That's a requirement for a mortgage normally. They are quite sizeable. It's a wood-working shop; I mostly work in wood.

What I'm trying to get to is, the situation here is I find that under those guidelines I have to go to my clients and I have to say: "I can't take a deposit now, I can't take a payment now; I have to spread these over the year." This is not a way to run a business, in my mind.

1720

The paperwork system is almost irrelevant to any other bookkeeping system that I would use. I could see it if you were taking someone on welfare and you wanted to teach them how to run a business and how to keep books. All it does is complicate mine. Mine's based on an income tax system. At the end of the year I can show a statement. I think at the end of the year, if I'm making money, if the government says, "Okay, you're making money; you're making \$3,000, \$4,000 on top of your costs," and they think it's reasonable to cut down the benefits, then at that point I would say, "Yes, I could live with that." How am I supposed to budget? I'm only allowed to make \$2,000 a year clear. That's all I'm allowed. I'm not allowed an employee because I can't write that off as an expense.

I have to care for my wife, I have to care for my children. I have to take my wife into town, I have to take her to doctors, I have to take her to community mental health services. It's 20 kilometres to town, so if I wish to take her in for a community mental health service meeting, I take her in. That's 20 minutes. I come right back — that's 20 minutes — so I can get some work done in the day. Then I go back again and I go back again.

In her disability allowance, there's no allowance whatsoever for a vehicle. I used to write that off. I'd say: "Obviously somebody's got to pay for the vehicle. It must be me." So I'd take that out of my business. Now I have to give them mileage, a definite business account: Why was that mileage paid? Where did I go and did I make money? Because if I want to go to a seminar or something to learn something, if I don't make money there, they won't let me write it off. I find these guidelines are just too strict. I could see it if I was making \$120,000 a year or whatever. I could say, "Yes, she doesn't need her \$1,400 a month," which is what we live on. That's the house budget. My business budget's a separate thing. I think, okay, if I can take money from my business and apply it against our living standard and improve our living standard, so be it, that's good. I have no argument with the government saying, "Okay, that's allowed."

Right now, as it is, if I make, say, \$1,200 profit in a month, they claw that back except for the \$200, the \$165 we're allowed. That's actually taxable income. I have to pay taxes on that, plus they claw it back. This again doesn't make sense. I'm just looking for a more humane way of doing this.

In what I read here they talked about dealing more individually. These workers have to have the ability to deal with family circumstances and situations individually. When you take a situation and you say, "Across the board, we're doing this," that doesn't necessarily apply. Instead of me being able to progress in my business and hopefully get to a point where we can say, "No, we don't need these family benefits," they're making it more difficult. It's like getting from there to there. They just take it right out of there. So unless I can make that jump way up there, unless I start bringing in \$4,000 or \$5,000 a month — and to do that I'd need an employee, you see. Primarily, that's it.

She did show improvement. We had a psychiatrist who helped her deal with things. The psychiatrist, unfortunately, was killed in a car accident. Now there are, as far as I know, no psychiatric services there. I thought that was helping her, I really did. That would be a good thing. I don't know where the funding comes from for that, but this is Parry Sound. I know we're a backwater, and I'm rural. Primarily that's it unless there are any questions, specifics.

The Chair: Thanks very much, Mr Hupfield. We have four minutes per caucus. Mr Carroll, for the Conservatives.

Mr Carroll: Thank you, Mr Hupfield. I'm not aware of the specifics of your case, but the way you presented it, the logical thing would be that it needs to be assessed a little differently. When you talk about seasonal income

that you have because of what you do, I'm surprised there isn't some provision somewhere that would allow for that. Have you talked to the people at Parry Sound?

Mr Hupfield: A great deal.

Mr Carroll: And they won't —

Mr Hupfield: They've made some concessions, yes, inasmuch as it's more feasible. They're allowing me to spread my \$1,300 insurance costs out over a year now.

Mr Carroll: But they won't allow you to amortize your income over 12 months.

Mr Hupfield: No.

Mr Carroll: What about a month where you lose money?

Mr Hupfield: I'm allowed to lose money; I'm not allowed to make money. I'm glad you're not in that situation.

Mr Carroll: I've been in that situation.

Mr Hupfield: Oh, okay.

Mr Carroll: There's something that's missing in that.

Mr Hupfield: Yes.

Mr Carroll: That doesn't seem to be a very logical approach.

Mr Hupfield: No.

Mr Carroll: I'd like to follow up on that one and make sure there isn't some different way that your situation can be assessed, because it doesn't make a lot of sense to me.

Mr Hupfield: Thank you.

Mr Carroll: I'd like to get your address afterwards, so I can —

Mr Hupfield: Afterwards? Okay. There was something running through my head there, but I guess I lost it.

Mrs Papatello: Thank you for coming with your description of what life is like. My concern today is, this Bill 142 is making significant changes to people who need social assistance and what it's doing is taking a whole slew of bills that dealt with people in very different circumstances and they are now being sectioned into two groups. You are either one of two things: You are substantially disabled and therefore the world is your oyster, or you're in workfare. That's all. That's all there is. Everybody in every circumstance fits into those two big groups. That's it.

A situation like you have, I don't know where you fit in those two groups, because you're not the individual with disabilities and yet you're part of a family unit that is having significant issues because you live with one who is, who may or may not meet the criteria. We don't know what the definition is yet, because the criteria are in regulation, which has not yet been released. So we're not sure that your wife still will meet the criteria, and even if she did, we don't know how that impacts on the family unit yet. If she doesn't meet the criteria, then she goes in the other basket, which is work for welfare —

Mr Hupfield: It wouldn't work.

Mrs Papatello: — which in Parry Sound — I'm going to question Ernie Eves as to what kind of workfare issues are in Parry Sound. What is going to be available for her as her career opportunity?

Mr Hupfield: In a manic depressive, when they're manic, they're dysfunctional; when they're depressive, they're non-functional.

Mrs Papatello: Yours is frankly the perfect description of why the Ontario Mike Harris government shouldn't be doing this, because if we believe in social assistance at all, then we have to understand that life just isn't simple. There are not just two baskets out there in the world. There are not just two groups of people: substantially disabled and people who just should be working for welfare. That's not how life is.

The whole description of what you're dealing with indicates that it's very complex. There are issues you face in your family that are very different from what others face. My greatest fear is that this bill does nothing to service what your needs truly are in your family, and I only can hope that yours has been a very good example that the government must take under advisement and make significant changes so that we don't just have two baskets in Ontario, because two baskets just don't work.

I just want to thank you for coming today. I thought it took an awful lot of courage to tell us about your private life.

Mr Kormos: I thank you as well, Mr Hupfield. I have some extensive personal familiarity with schizophrenia and people with schizophrenia. It can be an incredibly devastating disease, not only to the person suffering it, but to the people who are around that person, who love that person.

Having no personal familiarity with the scenario of you and your wife, it's one where it's a vicious circle, because if medication kicks in, everything's fine. Then all of a sudden the person — and that's where Ms Papatello is probably quite right, because when the medication's being taken and when everything's at the right dosage, one is no longer disabled; one can function pretty well. But then because one functions well, one says, "I don't need to take these crummy pills anymore; besides, they cause dryness of the mouth and all the other symptoms."

Mr Hupfield: It's not even that simple. When they're taking those medications, body chemistry changes. Those medications have to be tuned all the time.

Mr Kormos: Fine-tuned, constantly being adjusted up and down.

Mr Hupfield: She hasn't had a review of this in two years. I would like to see it reviewed but I don't know how to do it other than for her to go to Penetanguishene. I don't think that's necessary.

Mr Kormos: You're also talking about how the system is overly rigid, how it's black and white, these are the rules. I want to make sure I'm getting the right impression.

Mr Hupfield: Yes, I believe so. It's in here. Over and over, it says "individual rights of disabled people, individual cases." I think that's the way it has to be dealt with, but it can't be when they're getting a set of guidelines laid down to them like that which are saying, "These are the rules." That's what they've been applying against me.

At one point they wanted me to give them monthly statements for four years of work, which meant a filing cabinet like this, which I just told the woman was a waste

of my time and hers. I refused to do it. Consequently, we got into this big foofaraw. Again, I found the administrator's office to be very useful to me in this situation, but I'm not sure why the situation arose in the first place.

Mr Kormos: Jack Carroll is the parliamentary assistant to Janet Ecker, who is the minister in charge, the minister responsible. He's the person who can make things happen. If he wants things to happen, he can make them happen.

Mr Hupfield: He said he'd speak with me.

Mr Kormos: He's the person to talk to. We appreciate you coming.

The Chair: We want to thank you for being here and sharing your story with us.

Mr Hupfield: I hope I didn't waste your time.

The Chair: It was definitely not a waste of time. We're really very appreciative. Have a safe drive back.

For members, the taxi pickup will be at 6:15 at the front door of the hotel. Unless there is any further business, we are adjourned until 9 o'clock tomorrow in the Delta Ottawa Hotel.

The committee adjourned at 1733.

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Mardi 21 octobre 1997

Standing committee on social development

Social Assistance
Reform Act, 1997

Comité permanent des affaires sociales

Loi de 1997 sur la réforme
de l'aide sociale

Chair: Annamarie Castrilli
Clerk: Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Tuesday 21 October 1997

Mardi 21 octobre 1997

The committee met at 0900 in the Delta Ottawa Hotel, Ottawa.

SOCIAL ASSISTANCE
REFORM ACT, 1997LOI DE 1997 SUR LA RÉFORME
DE L'AIDE SOCIALE

Consideration of Bill 142, An Act to revise the law related to Social Assistance by enacting the Ontario Works Act and the Ontario Disability Support Program Act, by repealing the Family Benefits Act, the Vocational Rehabilitation Services Act and the General Welfare Assistance Act and by amending several other Statutes /
Projet de loi 142, Loi révisant la loi relative à l'aide sociale en édictant la Loi sur le programme Ontario au travail et la Loi sur le Programme ontarien de soutien aux personnes handicapées, en abrogeant la Loi sur les prestations familiales, la Loi sur les services de réadaptation professionnelle et la Loi sur l'aide sociale générale et en modifiant plusieurs autres lois.

THE ANTI-POVERTY PROJECT

OTTAWA-CARLETON COUNCIL ON AIDS

The Acting Chair (Mr Bernard Grandmaître): If we can start on time, maybe we can finish on time. Good morning, everyone. You'll be given 20 minutes for your presentation and any time left will be used for questions. Our first party this morning is The Anti-Poverty Project: Linda Lalonde, a community organizer, and also Ron Chaplin from the Ottawa-Carleton Council on AIDS. Good morning, Linda.

Ms Linda Lalonde: Good morning and welcome to Ottawa-Carleton. Well, not you, Ben, but some of these other folks. We'd like to thank you for responding to the many requests you have received to take these hearings across the province and for giving us this opportunity to meet with you to discuss Bill 142.

I am the community organizer for TAPP, Linda Lalonde. With me today are Ron Chaplin from the Ottawa-Carleton Council on AIDS, one of our community partners, and Linda Osmond from Catholic Family Services, who is a member of the TAPP steering committee.

Ms Linda Osmond: Hello. I work with Catholic Family Services. We're a family service agency that pro-

vides counselling to individuals, couples and families. We served over 4,000 individuals last year, and 73% of the individuals or the consumers that we serve receive family benefits, GWA, or are low-income, which is why we're here today to speak to that. Thank you.

Ms Lalonde: The Anti-Poverty Project is a coalition of organizations and agencies active in social services across Ottawa-Carleton. We are funded jointly by the United Way/Centraide and the social services department to provide public education and advocacy on poverty issues for both people living in poverty and the general public. Along with others in our community, we have been advocating for a better way to provide services and supports to those in need. We believe that reform of the welfare system in Ontario is essential and overdue.

Ours is a strong and united community where community agencies, users of services and our regional government come together to work in partnership to ensure the wellbeing of our fellow citizens. You will see these partnerships at work today as you hear echoes throughout today's presentations of the following themes.

Bill 142 will hurt disabled people.

Bill 142 will hurt the elderly.

Bill 142, and particularly the Ontario Works Act, is punitively based.

Bill 142 will lead to longer-term poverty for many people.

Bill 142 will divert public funds, through privatization, away from people in need.

Bill 142 is not built on a positive vision of a caring and supportive society.

Ontario Works? Ontario does not work for poor people and neither does Bill 142. Although reform is needed, this is the wrong reform.

TAPP has been holding community consultations around Bill 142 since June. We have talked to hundreds of ordinary people who are concerned about what this legislation means for their community, themselves and their neighbours. Not all of them were recipients of assistance or people working in the field, those special interest folk. We are bringing to you today the concerns raised by average citizens, knowing that you will hear about the legal issues and systemic problems from others.

I will ask Ron to speak to you now about this community's concerns for those of our neighbours living with HIV and AIDS.

Mr Ron Chaplin: Thank you, Mr Chairman and Linda. My name is Ron Chaplin. I am the designated

spokesman on this legislation for the Ottawa-Carleton Council on AIDS. It is entirely appropriate that I be sitting here next to my colleague and friend Linda Lalonde, because in our community far too often one of the symptoms of AIDS is poverty.

Our council is a coalition of representatives from 28 different agencies which provide services in this community to those infected with HIV and those at risk. These agencies represent governments, hospitals and other health care providers, physicians and social workers, community-based charitable organizations and faith groups. Our organization is unique in Canada. No other community has such a broad-based coalition to combat AIDS in all its manifestations.

I have two very brief messages I would bring this morning to the members of the committee and to the public. I will not take much of your time.

First, the redefinition of "disability" in this bill causes great anxiety for many of our clients. Despite reassurances we have received from the Ministry of Community and Social Services, we remain very concerned about any redefinition of "disability" based more on substantial reductions and activities of everyday living than on employability. Most of our clients are able to live independently, without necessarily being employable.

I myself have been living on a disability pension for more than four years now. It is a private pension and not public assistance, but that is of no import. Withdrawing from the workforce has been an integral part of my medical treatment. Had I not done so, I have every reason to believe I would not be alive today.

I know that other agencies scheduled to appear before you today will deal with this concern in greater detail, as have AIDS organizations already in Toronto. Let me therefore turn to our second concern.

We of the Ottawa-Carleton Council on AIDS are very distressed about subsection 4(2) which would automatically make those suffering from alcohol or drug addictions ineligible for disability benefits. Over the last several weeks, several public health officials have warned of an impending public health emergency here in the Ottawa-Carleton region. The rate of new HIV infections among the injection drug-using community has been exploding. Preliminary data provide no definitive picture of the full extent of this problem, but some fear that the incidence of HIV infections in this population might be as high as it is in Vancouver. Over this last year the east side of Vancouver has gained international notoriety as being possibly the most AIDS-infested corner of this planet.

As a long-time AIDS activist and someone who has been living with AIDS for 13 years, I find these studies terrifying. Incidence levels this high provide a perfect conduit for those with a recreational cocaine habit to become infected and to in turn pass the infection along to their spouses and their children in their middle-class neighbourhoods in the city and in the suburbs.

Within the HIV treatment community here in Ottawa-Carleton, the most common model for treating HIV-positive persons with addiction problems is the harm-reduction model. Such treatment may or may not begin

with detoxification. It does begin by trying to get the client off the streets. To be on the streets is to be exposed to street drugs, to sharing syringes and other paraphernalia and to dangerous sexual practices and petty crime. Sometimes the supplement between disability benefits under family benefits assistance as compared with general welfare assistance can make all the difference in the world.

We would challenge this government and the members of this committee to recommit themselves to the effective treatment of persons suffering from addictions. This would make the streets and the homes of all of us safer places. We would urge the committee to reconsider this exclusionary clause in this legislation.

Monsieur le Président, merci de votre attention.

Ms Lalonde: The most frequent response to this legislation has been a simple question. Why? Ordinary people don't understand why such draconian measures are necessary. One politician has told us that it's partly in response to what you hear in your ridings and other places about people on welfare, that they are lazy and do nothing until they are pushed, that they are feeding at the public trough, that they're dishonest and unreliable. This is merely gossip and not based on fact. Most people on social assistance don't want to be there and do everything they can to get off welfare. Most single people stay six months or less on assistance and most single parents two years or less. This is not dependency.

I am sure you have also heard about another group held in low regard by the court of public opinion. The word on the street is that politicians are also feeding at the public trough, are dishonest, unreliable and do nothing they don't have to. Do you also believe this and are you preparing legislation to deal with that problem, or do you discount such rumours in favour of the truth, which I think we're all aware of?

This government is on record as saying that you would protect the disabled. When you implemented your welfare cuts you protected the income of disabled single mothers with able-bodied children. You did not protect the income of disabled children with able-bodied single parents. Now that mother will be required to participate in Ontario Works if her youngest child is in school regardless of the special needs of her older children. Why is there not an automatic, non-discretionary exemption in this case?

Welfare workers and other social services staff are, to the best of our knowledge, human. Like other human beings, they make mistakes in carrying out their duties. Some of these mistakes are due to lack of information, fatigue, misunderstanding of information provided by the client, incomplete information, poor or non-existent training, bad judgement, language difficulties and other things we're too polite to mention.

Throughout this legislation there are many things which cannot be appealed. Many people we've talked to feel this is unjust since it allows bad decisions to go unchallenged. How is a worker going to be corrected and stopped from making the same mistake again if there is no mechanism to

question the decision? Honest mistakes require honest remedies.

Some workers make decisions which are wrong and are intentionally arrived at. There may be issues of power or control over clients. A worker may be punitive, lazy, prejudiced or vindictive. Should such a worker be allowed to make decisions which affect a client's life without any challenge being possible? If the system is right and just, surely it can stand to have a little light shone upon it. A lot of people feel this gives a worker too much power over their client, with an incredible potential for misuse of that power.

0910

Children who are under school age need to have a parent at home to supervise them, particularly when safe, affordable licensed child care is not available to all children in Ontario. This is equally true in one-parent families as in two-parent families. Where there is a preschooler or a special needs child in the home requiring parental supervision, one parent should be exempted from the requirements of Ontario Works, whether in a dual-parent or a single-parent family.

This legislation allows the welfare system to appoint a trustee to take over the affairs of a client whose money management skills don't pass muster. This trustee is not going to be held accountable for what they do with the money, either before or after the fact. If this person diverts the money for their own purposes or spends it in a way the client does not support, neither the client nor the government have any recourse. The example was raised by one person of a devout trustee who donates a tithe of 10% of the welfare cheque to his church against the wishes of the client. What recourse would the client have and how would they eat?

Another area people don't understand is that part or all of a welfare cheque could be diverted to a landlord or some other person without the client's knowledge or consent. If the toilet backs up and the landlord refuses to fix it because he hasn't budgeted properly for repairs, it's appropriate for the client to pay for the repair with their rent money. With this legislation in place, the tenant will not be able to recover the money owed to her by the landlord because the landlord can get it through the welfare office. There are situations where a tenant may be unable to manage their money and would welcome third-party payment made with consent. Why does this legislation not require that the client be informed and consent be at least requested? Why would this not be appealable?

Child support is obviously an important issue for single parents. Many mothers who are acting responsibly in raising their children do not see reciprocal responsibility from the other parent. A lot of parents resent the implications found in the act that they need to be forced to be self-reliant and not depend on the public purse. In many cases, the reason the family is forced on to social assistance is marriage breakdown and the subsequent failure of the father to pay the child support he can well afford. One mother wants to know if you will be forcing

him to do community service in exchange for the benefits you are paying out for his children, or is responsibility and self-reliance reserved for low-income mothers?

One of the most useful outcomes of the cooperation between the social services department and the community here in Ottawa-Carleton has been our work together on the development of local welfare policy. We understand that a team of ministry staff is working on the regulations and policies which will flesh out this legislation. Given the opportunity, planning can be a collaborative effort between the government and those affected by its programs. As you know, there are parts of this legislation which you will change as a result of feedback from the community. We would like to work with you to prepare regulations and policies which meet the government's needs and also serve those whose lives are affected by the social assistance system. Specifically, we are asking to be consulted in the development of the regulations and policies which will go with the Social Assistance Reform Act, and this request is made whether or not you accommodate the changes we're requesting today.

We thank you for listening to us today and look forward to working with you to create a better way of assisting people in need in this province.

The Acting Chair: We have 16 minutes left and we'll split it between the three caucuses. Oh, I'm sorry. We have four minutes. So one question per caucus, and we'll start with the government caucus.

Mr Frank Klees (York-Mackenzie): Thank you for your presentation. I'd like to follow up on your concern regarding the introduction of the trustee. Perhaps you can give us some advice on this. I'll give you an example. I have recurring issues come to me, as an MPP, where unfortunately there is someone who may be an alcoholic, or some other form of drug abuse is part of the picture. The welfare cheque comes in and a week later there's nothing left for the family. Then what do we do?

The idea of the trustee is there so that there can be an assurance that the money that is being paid to that family is in fact going to sustain that family. You indicated that you'd like to see third-party consent. Well, quite frankly, in a situation like that, I think it would be pretty difficult to get the third-party consent. Can you give us some advice as to how this could be addressed?

Ms Lalonde: First of all, I think there is a Substitute Decisions Act which would cover most of the scenarios that people on social assistance would be in. There are situations where it is not possible to get consent. What we're asking is that consent be sought and, more important, that the decisions of that trustee be accountable.

Mr Klees: I concur.

The Acting Chair: I must go on, Mr Klees. I'm sorry.

Mr Alex Cullen (Ottawa West): I'd like to go back to the definition of "disability." I understand your concerns with the new definition. What would you offer as a substitute for that definition? What should we be working with?

Ms Lalonde: We've deliberately not addressed that because we know there are many other people here today

who have more expertise in that who are going to address it.

Mr Cullen: I've just used up my time here. You can take advantage if you want —

Ms Lalonde: Give Sandra a question.

The Acting Chair: We must go on.

Mr Peter Kormos (Welland-Thorold): I should tell Mr Klees that it doesn't take a drug addict or an alcoholic to make a welfare cheque disappear in one week. In view of the fact that the rates have been slashed by 22%, after one week there is usually nothing left in any event. That's why people are at food banks and begging out on the street, or writing cheques hoping they can cover them before the cheque clears.

What's remarkable as I listen to your comments is that one of the first things this government did was slash welfare rates by almost 22%, and it seemed that almost the second thing they did was increase MPPs' salaries and indemnities by almost 40%. I find that repugnant. Then they bought out pensions. I've had a whole bunch of social assistance recipients suggest that they would be prepared to be bought out in the same way Mike Harris was bought out by his MPP's pension. They'd be pleased with that. Perhaps the committee could consider that.

The Acting Chair: Is there an answer to no question?

Ms Lalonde: Certainly the issue of welfare rates is an important one and the question of the priorities of the government is a very important one for people on social assistance, because the message that we're getting is that people on social assistance are the 997th priority after many other lesser issues.

The Acting Chair: Thank you very much for your presentation this morning.

ONTARIO ASSOCIATION OF SOCIAL WORKERS, EASTERN BRANCH

The Acting Chair: We'll go on and invite the Ontario Association of Social Workers, Mr Reuel Amdur. Good morning. You have 20 minutes, and any time which is not used to make your presentation will be split among the caucuses.

Mr Reuel Amdur: My name is Reuel Amdur, and I am an Ottawa social worker speaking here today on behalf of the Ontario Association of Social Workers, eastern branch. I come with some 17 years of experience in the fields of social assistance and homelessness. I was a major contributor to the association's submissions to the Social Assistance Review Committee, which produced the Transitions report.

In addressing the new Ontario welfare legislation, one is handicapped by the absence of the accompanying regulations. These constitute a major part of the law. In any case, I will make a few remarks about serious defects in the current regulations. You cannot change these through the work of this committee and of the Legislature, but I urge government members to call the minister's attention to them.

In the explanatory note to the Ontario Works Act it says said that the act "effectively serves people needing assistance." We maintain that in order to serve people in need effectively we must provide adequate assistance. Our submission to the Social Assistance Review Committee called for assistance adequate to sustain people in conditions of dignity and decency. We further argued, and Transitions agreed, that need should be based on a market basket approach wherein need is measured by costing the various items in a basket of goods and services required to survive.

0920

We believe that, were this approach used, the government would not have cut welfare benefits by 21.6%. A survey of social workers and agencies undertaken by our branch has demonstrated the consequences of the cuts: growing despondency, an increase in suicidal behaviour, petty theft, an increase in prostitution, a young mother turning to topless dancing to feed her child, disruption of family ties, etc.

Put in other terms, if you want normal functioning, people require normal conditions.

Applause.

The Acting Chair: I would ask that you refrain from applauding because you're just cutting back on time allocated to the presenter.

Mr Amdur: Pay now in adequate assistance or pay later in increased dysfunctional behaviour.

Let us turn to other regulatory measures. We favour the elimination of the provision punishing sponsored immigrants if the sponsor does not or cannot pay. Punishing the victim is never good social policy. We recognize that this government did not introduce this measure, but while it is revising welfare legislation it should give serious consideration to eliminating the provision.

In the same vein, we favour the elimination of the provision that cancelled work incentives for the first three months of assistance. We believe that recipients should be encouraged to maintain or establish an involvement with the world of work. For that reason, the disincentive to work should be eliminated. This government promised during the last campaign to allow recipients to keep earnings without penalty in an amount up to the old welfare rates. This government has kept that promise, except for new recipients. We urge you to complete the job and eliminate the work disincentives introduced by the previous government.

Let us turn now to the acts themselves. One provision that has been the occasion for some comment is that concerning third-party payments and trusteeship. I have found that such provisions are extremely important for a number of people whose functioning is at a low level. In many cases it means the difference between homelessness and a place to live. Changes in other trusteeship legislation have made such legislation of very limited value in serving this purpose.

While supporting the importance of such provisions, I would object to two provisions. I cannot support trusteeship merely on the basis of age; and it is a principle of what lawyers call natural justice that there be the right of

appeal once trusteeship is arranged. We urge that the act not discriminate on the basis of age and that an appeal be allowed.

We oppose the proposal to put liens on the homes of clients. The number of client homeowners is not great, and the social and psychological losses which can be foreseen, losses of self-respect and increasing despair, seem hardly worth it. Since accommodation is part of assistance, this measure discriminates against those who have worked hard to get a home of their own; not a worthwhile policy.

We also object to the change that would disallow an appeal to the tribunal if the client does not appear at the hearing. Currently, the hearing will nevertheless continue. If someone is authorized by the client to act on his behalf, then a case can be put. This provision protects people who are too sick to appear, usually for psychiatric reasons.

We also call for changes in the definition of "disability" in the Ontario Disability Support Program Act. The provision requiring inability to carry out activities of daily living is so restrictive that only a small fraction of current FBA disabled recipients would be eligible. The criterion should be ability to earn one's living.

As well, the disallowance of assistance to persons whose disability is "caused by" substance abuse is bad policy. We need to deal with people unable to work because of disability regardless of cause. We need to assist persons with AIDS whether the condition is acquired through sexual activity or by sharing needles. If a person's level of functioning is such that he or she cannot handle the benefits without squandering them on substance abuse, then trusteeship is the answer. Their care can be expensive, and the inadequate amount available through general assistance, under that or any other name, will not do.

Finally, a few words about Ontario Works as an approach. It is our experience that most people on social assistance want desperately to work. A study done for the Social Assistance Review Committee by Professor Ernie Lightman found that FBA mothers were leaving the rolls in substantial numbers, going to work that left them less money than they would get on FBA. The Ontario government does not need to sell welfare recipients on the value of work.

It is paradoxical as well that this government would choose to place people to work in the public and non-profit sectors, where there is very little hope of their finding employment. It would make more sense for placements to be where jobs are, in the private sector.

We might add that the major problem with unemployment is not work-shy recipients; it is economic conditions. That is why welfare rates for employable people vary with economic conditions.

We are especially concerned about the severe penalties for non-compliance. We doubt that welfare workers are uniformly capable of determining the emotional and psychological status of their clients sufficiently to impose such stiff penalties. Can they detect depression, paranoid conditions, character disorders, intellectual deficiency? In short, just how capable are we of screening to determine who is able to get and hold a job?

Those are my remarks, Mr Chairman.

The Acting Chair: Thank you, sir. We have nine minutes left, so three minutes per caucus and we'll start with the opposition.

Mrs Sandra Pupatello (Windsor-Sandwich): Thanks for your presentation. You didn't discuss the issue of social workers being able now, under this bill if passed, to effect a search warrant and act under it. My concern with that is that the police study for two years at Aylmer College to gain the kind of training required for all of the technical detail of the application of a subpoena or of a search warrant. I'm curious to know, when the regional offices are telling me training budgets for their staff are severely cut, there's very little training going on today, the ministry is suffering a significant cutback, how, at that same time, the social workers will ever be trained appropriately to take over the job of police officers with all that that entails.

Mr Amdur: I think that's an excellent question. I think part of the problem that we have is, in fact there's a great deal of training going on right now. Everybody is being trained on the new Ontario Works legislation, so much so that it's difficult to get a job done. The problem you raise is a real one, and I really don't have an answer to it.

Mrs Pupatello: Would you say that it's really not the place of social workers to suddenly become police officers and join the fraud squad tactical unit on a search-and-destroy mission in terms of acting under search warrants?

Mr Amdur: I would think that there is a role for specialized staff to concern themselves with fraud. I would have a real question about this being a general kind of activity. I don't think it can be carried out effectively by welfare workers in general.

Mr Kormos: You made some reference to the adequacy of the assistance provided. Interestingly, the government has created a two-tiered system: one level of benefits for the ODSP — whatever the acronym is, appendix B — and another level of benefits that is slashed by 22% for what is called Ontario Works, which is really nothing more than GWA.

I presume the argument is that if you provide an adequate level of support, nobody will want to get off social assistance. We had a crisis a couple of weeks ago when it was suspected that unemployment might drop below 9%. That was a crisis. The Bank of Canada raised the interest rates so that unemployment wouldn't drop below 9%. Is it useful to reduce assistance rates? Does it help people escape the trap of poverty by making them poorer?

0930

Mr Amdur: The evidence that I presented today, and the evidence in general, seems to be that as you crush people they fall apart. It's as simple as that. Certainly the results of the cuts have been disastrous for many people. Many people manage to survive in spite of it. Maybe try another 20% and see what happens. It's not the kind of social experiment I would like to see continued.

Mr Jack Carroll (Chatham-Kent): Mr Amdur, a couple of things. Thanks very much for your presentation, by the way. You have some concern with a change that would disallow an appeal to the tribunal if the client does

not appear at the hearing. The act as it is written states, "if in the case of a hearing held in person, the person appealing fails, without reasonable cause, to attend the hearing...." Does that not cover your concerns about somebody who in fact could not be there because they were in the hospital?

Mr Amdur: This is the proposed change?

Mr Carroll: Yes, that's in the act, Bill 142.

Mr Amdur: Oh, the new act.

Mr Carroll: Right. Bill 142 says if one fails to appear without probable cause. Does that allay your fear there?

Mr Amdur: Okay, yes it does. I saw a previous thing that just said that the person would not be — maybe it was an earlier version that I saw, I don't know.

Mr Carroll: It could have been. It also could have been not the whole story that somebody put out there.

Mr Amdur: I saw the copy that was distributed by the Ontario legal clinics.

Mr Carroll: But the act in fact does say "without reasonable cause."

Mr Amdur: That would probably take care of that problem, sir.

Mr Carroll: The second issue: When you talk about liens on homes, you understand that as it relates to people on the disability support plan, we have stated that there is no intention of putting a lien on their primary residence, but if they had a second residence, it would be reasonable to assume that at some point in time the equity that they might have in a second residence could be used possibly to assist in their care. Is that a reasonable expectation, do you believe?

Mr Amdur: I would have no objection to the question of additional residences. But the concern was that this measure might be included also in the Ontario Works legislation and could affect people who were homeowners in terms of their only residence, and the information in the press indicated that this seemed to be the intention.

The Acting Chair: Thank you for your presentation this morning. Now I'd like to invite Mr Jim Anderson, president and CEO of the Gloucester Chamber of Commerce. Mr Anderson?

BARRIE ACTION COMMITTEE FOR WOMEN

The Chair: Then we'll go on with the Barrie Action Committee for Women, Sherrie Tingley, member. As you know, you have 20 minutes for your presentation.

Ms Sherrie Tingley: I would like to begin this morning by making introductions and thanking you for the opportunity to present on Bill 142. My name is Sherrie Tingley. I am here on behalf of the Barrie Action Committee for Women, but more importantly I am a single mother living in poverty.

My partner for this presentation is Monica Petzoldt. She is also here on behalf of the Barrie Action Committee for Women and as well she sits as an Ontario board member for the National Anti-Poverty Organization. We're quite proud of that. She's also a single mother

living in poverty. Monica is on family benefits and works part-time and is directly affected by this bill.

In our community, Barrie, there are many people who rely on municipal and provincial welfare in order just to get by. Even at that, most are just getting by. Others are not so fortunate and are homeless or on their way to becoming homeless. Single mothers are being forced to give up their children to their ex-partners and often abusive partners. Other single mothers are being forced to ask the children's aid society to temporarily look after their children. But often temporarily becomes crown ward, not usually because that is what a woman chooses but because she is on social assistance and living in poverty and unable to find adequate housing. Because she is poor, she is labelled neglectful, lazy, unable to budget, dependent on the system, won't work etc. We exaggerate not. Most people on assistance can relate to this type of abuse that is heaped upon their heads on a daily basis whether or not they have children.

We have many people who are forced to go through garbage dumpsters looking for food and clothing. The ones that are the fittest help out the ones that are unable to go garbage picking because they are disabled, or too weak, or too old. When this fact was mentioned to an official at our local social services office, he stated, in relation to the cuts, "People have always gone through the dumpsters." How does making a statement like that address the problem? Are people going through the garbage because they choose to? We know that this is not the case; they are being forced to live like this, especially since October 1995 when the Harris government chose to cut welfare payments by 21.6%.

This same government has brought in Ontario Works — workfare. We don't know what Ontario did before Ontario Works. We suppose that, according to the Tories, we were Ontario too lazy to work. Everyone, except women with preschool-age children and the disabled, will be expected to voluntarily participate in workfare. It would appear that people will not have a guarantee of workplace safety; the legislation expressly removes any obligation to adhere to the employment standards legislation. They will not be allowed to refuse work because working conditions are unsafe or because they do not have or have not been provided with the proper safety equipment to do the job.

The Tories, who are here today, I guess, believe that the Ontario Works Act will teach people on welfare self-reliance through employment or they will suffer the consequences. People needing financial assistance may be forced to take out a loan through their local Ontario Works office and be forced to pay it back through income, assets or whatever measures necessary. People will work for their cheque through workfare and will also be expected to pay it back, supposedly, through future earnings. Does this mean that people will pay twice? It creates a financial trap from which many will never recover.

People on social assistance want to work, need to work, but there are not enough jobs that pay a living wage. How do we value people in this society? Is it all about having a

job? What about single moms who choose to stay home to raise their children? Why is that job not valued? The job of mothering is not valued if you're a single mother but certainly encouraged if you have a partner in your life.

What about women who are fleeing abusive partners? Most single mothers on welfare are there because they have fled an abusive relationship. Will they be given time to get their lives together?

People who own homes and are forced to apply for assistance will have a lien placed against their home. Most of these people will probably not have much equity in that home. How long before their bank will call in the mortgage, as the bank watches more and more of the home being owned by the local social services office? Maybe this is your new housing plan as well.

I'll turn it over to Monica.

0940

Ms Monica Petzold: Bill 142 is not an isolated piece of legislation. It is part of an ideological "get tough" policy. It's a philosophy that doesn't care about poor people; a fundamental change in the way we consider our responsibility to our neighbours and the value of all Ontarians in our society.

When Canada created our social safety net we were ensuring a minimum standard of living for all Canadians regardless of their circumstances. When the Liberal government removed the Canada assistance plan that governed the standards for provinces receiving transfer payments, it in effect gave permission for provinces to reduce or even eliminate some of the protections that were part of previous provincial social programs. As a result, the public has been encouraged to believe that previous social programs were excessive, wasteful, overly generous to the undeserving and the cause of economic dependency for the unemployed.

When we created our social programs we were moving away from the misery of the Depression years, yet we are now going back to those years. The difference though between now and then is that during the Depression years everyone was poor. Nowadays some people have so much, while so many have to do without. Poverty is not just about not having enough to eat; it is about not being able to take advantage of the day-to-day activities that other people in this society take for granted.

Poverty is about not being able to pay for pizza days, fund-raising days, milk days, trips to the theatre, buying books through your school, school trips, school electives etc. It is about standing out in a classroom of kids who just know you are different. It is about someone saying: "You can't afford it. You don't deserve it. You're on welfare."

How is this legislation going to address any of these issues? It is not. It is just going to further penalize people. We already have a hierarchy within our current welfare system, a hierarchy which the welfare system strives to maintain, to the detriment of the clients it serves. We have the disabled, who are the most deserving of all of us because they can't work. Then we have the next deserving, who are parents with disabled children and single moms with preschool-age children; they can't work

because they need to stay home with the little ones. The next bunch are the single moms with older children; they choose not to work or can't work for a variety of reasons. Then we have the two-parent family on welfare; one of the parents is expected to look for work while one can remain at home to look after the children. Then we have the most despised of the lot, the single person; he or she will not work, is just too lazy to work.

So you see it is a dog-eat-dog world, even within the non-deserving, as to who in this bunch are the deserving poor and the undeserving poor. Why are we made to feel like scum? Why is it when I tell my story as a single mom who lives in the Barrie community, people who listen to me say, "But I don't mean you, dear"? What does that say about the average person on welfare? I am just like most people on welfare. I want to raise my children, contribute to society in any way that I'm able to, be valued and respected for being a human being who deserves understanding and compassion.

Today I am a woman on social assistance and I work part-time. People value that somewhat because I'm seen as at least trying to do something. When my job is over in March 1998, because my place of employment is closing, I will go back to being a lazy, good-for-nothing parasite on society. Nothing will have changed except I may not find another job, yet you and others sitting around this room will view me differently. I will need workfare; I and my children will need to be punished because we are on the system. Bill 142 is meant to teach me self-reliance. Or will it instead teach me and my children to hate this government and to hate others who cannot see that we are just like others in this province trying to get along day to day? We all had dreams. We all had goals. When I was 18 and being interviewed for my yearbook, I know that I didn't say I would like to be 40 and be on welfare and feel powerless and hated.

I want my children to be able to go to university or college. Will that be possible? As a woman living in poverty, I'm not sure. Will they end up living in poverty in their adult years? How is my being forced to go thousands of dollars in debt in order to house and feed my children going to give them a good start? How is forcing me to participate in workfare going to get me a decent job? I am already looking for full-time work. The jobs are not out there. I did not have the benefit of getting into a family business, as did Mike Harris and John Snobelen, when I was younger.

In conclusion, we would like to say that this legislation is wrong. There will be no right to appeal. Welfare administrators or their staff will have a variety of new powers. They will be able to walk into our homes or, worse yet, cut us off if they suspect fraud; overpayments cannot be disputed; liens against our homes; loans for welfare. The welfare office will be able to decide whether you spend your money wisely or correctly. They will be able to make payments to a third party on your behalf — slave labour for your meagre cheque. It is morally and ethically wrong to treat people like this.

We could go on and on, but it is all wrong. We would ask that this committee keep this in mind. As you listen to presentations of others today and from the other parts of this province in considering this legislation, please remember what we have said. We have spoken from our hearts, from our own personal experiences and most of all as people who are going to be directly impacted by this horrendous bill. This bill is disguised as something that is good for all of Ontario, especially the poor on social assistance. Is it really going to get Ontario back to work or serve to further humiliate and disempower the already marginalized in this society? We would like you to see us the way you see yourselves. The only difference is our source of income.

The Acting Chair: Thank you for your presentation. We will now invite someone from the NDP.

Mr Kormos: Thank you, Ms Tingley and Ms Petzoldt. We heard data in Toronto — correct me if I am not dead on, but I think I am — that 93% of women on social assistance came to social assistance from families that had incomes derived from employment etc and that they were almost inevitably forced into that poverty in a dramatic way and almost overnight because of family breakdowns, violence, abuse, a real threat to the health and safety of mother and children. Can either of you talk about that in the context of your experience and the women you have worked with?

Ms Tingley: I'm not good with stats, but I understand that 93% of the children whose parents are benefiting from the system were born before their parents had to turn to the system.

Mr Kormos: That could be the number. Okay.

Ms Tingley: So often there is a perception that people have children just to get welfare or as they're on welfare.

In addition, the abuse piece is really hard to understand, but it is phenomenal, and of course often when women leave they turn to welfare initially. They cannot, especially in an abuse situation, get child support and have to leave the home, whatever. There can be horrendous injuries.

Families often fall apart when a child is terminally ill, and the mother may quit her job. The 2% of people who quit their jobs to turn to the welfare system may do so to manage to get through a very horrendous time in their life. Of course, workfare will help her. It is often in horrendous situations that people turn to welfare. It's for a short period of time. The system has been supporting people for a very short period of time — two years, three years for single parents, five months for people who are considered employable.

Mr Kormos: We all acknowledge or we should acknowledge, that assistance rates are not livable rates; nobody can live, nobody does live on what they receive by way of assistance. One way or another, somehow you've got to do something else. It can range from A to Z on the scale, I suppose. I'm worried whether the system that's being proposed by this government will force women to stay in living situations where they're risking their lives or their children's lives because the assistance rates do not provide a livable alternative. Can you comment on that?

Ms Tingley: We saw many women go back to abusive partners as a situation of coping with the cuts. We also saw a reduction in people using transition houses. That has gone up again because of all the people who went back to abusive partners, and they now have suffered horrendous abuse and are back into trying to leave again. I think the transition houses will tell you that. You are putting women at risk of horrendous abuse and death by continuing with these rates that are not adequate, that you know are not adequate because you testified that there was no obligation for this government to ensure that they were adequate to feed and clothe half a million children in Ontario.

The Acting Chair: Mr Klees, three minutes.

Mr Klees: One of the advantages of public hearings is that it gives us an opportunity as well to assess how clearly the proposed legislation is understood. I can tell you this morning that if your understanding of the legislation as you presented it this morning was true, I wouldn't support it, because I would not support legislation that does what you're suggesting this legislation does. Would you agree with me that people on social assistance do not want to be there? Would you agree that they would prefer not to be there if they had a choice?

Ms Tingley: Certainly.

0950

Mr Klees: Would you also agree that under the current system there are many barriers that keep people from transitioning back into the workforce?

Ms Tingley: I think the experts have shown you many barriers. We've had years and years of work in this province to talk about some of the barriers. In addition, the system was working quite well and there was a base of knowledge about the barriers, I would agree.

Mr Klees: The proposed legislation, I want to assure you, is based on that very premise: first of all, that people on social assistance would prefer not to be there, that there are barriers that are keeping them from transitioning back into the workforce and that this proposed bill would assist to remove the barriers and help people to transition back into the workforce. I agree with Ms Petzoldt. I'm sure really all you want to do is be able to look after your children. You want to have hope in your life. I want to give you the assurance, contrary to what you may hear from some spins about this legislation, that is the objective we're trying to achieve here. Would you agree —

Ms Tingley: I appreciate —

Mr Klees: I have one more question for you: Would you agree that it's inappropriate for the disabled in our communities to be on the same program as social assistance? Do they not have special needs?

Ms Tingley: I really want to talk about your assurances, because you've made such a big point of giving them to me. How about proving it? Get the experts. Let's slow down. Prove that this system is going to remove the barriers and in fact help people to be employed. The jobs aren't there. With this level of income, people don't even have phones. Are you going to increase the level of income?

Mr Klees: Part of the answer, yes, if I can respond.

Ms Tingley: I want to answer. Forcing people on workfare is going to interfere with their job searches, with the work they're already doing. If they're on welfare for a short period of time, why are you setting up a system where they have to be forced to pursue employment? That's based on the assumption that they haven't been trying, that they need to be forced. Take away the force piece and maybe we can start talking. Look at the experts. Look at all the work that's been done and prove it before you make it happen. I haven't seen the proof. Your assurances are nice, but I don't know where you're going to be in four years.

The Acting Chair: Thank you. Mrs Papatello.

Mr Klees: Let's work to —

The Acting Chair: Mr Klees, please.

Mrs Papatello: I've got to say to the government members that assurances to help people have included booting people off the system since the day they took office. It's included moving people who yesterday were legally blind and today you've found a way to boot them off the system. That's your assurance. You've taken people off welfare and put them on OSAP, accumulating \$42,000 of debt to finish their schooling. That's the kind of assurance you want to come to the table today to talk about.

I want to ask these people: You work, probably daily, with individuals who collect assistance. How many of them have the second home that they can now put a lien on? The reality is that the bill is very clear. It's says very clearly "lien against the property." It doesn't say "second property"; it says "the property."

The fact is that only 7% of all those on assistance have managed to keep their homes, because the truth is people who are hurting start to divest themselves of all assets until eventually they're left only to go on to the system. This is cruel and unusual punishment that you're giving people whose economy simply isn't sustaining a job for them. That's the reality. So to be coming in here with this bevy of excuses, as though you're showing some kind of sympathy for poor people, we're just not buying it. I truly want to ask these people presenting today —

Mr Klees: You don't understand the act.

Mr Kormos: I'm afraid we do.

Mrs Papatello: How many people have the kind of assets that they can even place liens on? Do you know anyone who has the mansion, do you know anyone who has a second home, the yacht that they're purporting to place liens on? How many people have you come across on assistance, on the system, who have that kind of wealth to put liens on?

Mr Klees: That obviously won't apply.

The Acting Chair: Mr Klees, please. Do you want to give the answer?

Ms Tingley: It's insane. If there is someone with a mansion and a yacht — it's sort of the great urban myth, I think — I'd like to see them. There are people with some assets. Ontario is very big. In some communities there is no rental housing. The housing that they own — and in fact you're saving an incredible amount of money. You're

often, in some cases, not paying the shelter allowance. I'm not quite sure how you're going to calculate that.

In a lot of cases, if someone does have the asset of the family home, they are also receiving a large portion of their cheque in child support and they may be getting only \$100 in welfare. I'm not clear if you're going to be charging them the \$100, if you're going to be taking the whole benefit. We don't have a clue how this is going to work. But if someone is getting supported by \$100 from you people, and in fact a drug card — there are women in this province who get \$25 a month and rely on the drug card because their children are disabled. That is one of the reasons they rely on the system, they have no other — what not. They may have a house. Again, show us, prove it. Doesn't the government have an obligation to prove some of the things that it is saying about how the system is going to work?

The Acting Chair: Thank you for your presentation.

Mr Cullen: Mr Chairman, just before we advance to the next speaker, I have a small question to ask of staff as a result of the presentation. It's very brief. On the issue that's been raised about having to repay the social assistance, I presume the government is going to be charging interest, there's a repayment schedule and it would be market interest for these people coming off welfare?

The Acting Chair: Can someone answer this question?

Mr Carroll: I appreciate the opportunity to deal with that particular issue. On the area of assignments, first of all, there's no intention for social assistance to become a loan program. The intention is that if somebody has access to another government benefit program and temporarily needs some assistance to see them over the hump and they're going to be getting some other compensation from government for the same period of time that they're going to receive social assistance, they would have an obligation to repay the social assistance rather than being able to access both systems.

Mr Cullen: But that's in place right now. What is the interest rate being charged here, though?

Mr Carroll: There is no interest rate being charged.

The Acting Chair: Thank you. I must go on.

SOCIAL PLANNING COUNCIL OF
OTTAWA-CARLETON

CONSEIL DE PLANIFICATION SOCIALE
D'OTTAWA-CARLETON

CANADIAN MENTAL
HEALTH ASSOCIATION

The Acting Chair: The Social Planning Council of Ottawa-Carleton, Susan Learoyd, program director, and David Welch.

Mr Kormos: Chair, if I may, while these people are seating themselves —

The Acting Chair: On a point of order?

Mr Kormos: A question, as is the course, to the parliamentary assistant. He may not have the numbers available today but perhaps he could commit himself to acquiring them. How much of the government's income tax break is being funded by the cutting and slashing of social assistance benefits? That shouldn't be a difficult number to arrive at. I wonder if the PA could give us those numbers at some point in the near future.

The Acting Chair: A very short answer, Mr Carroll.

Mr Carroll: Sure.

Mr Cullen: I look forward to that.

M. David Welch : J'aimerais d'abord présenter mes collègues, Susan Learoyd, who's program director at the social planning council, et Gary Holmes, board member of the Canadian Mental Health Association. Créé en 1929, le Conseil de Planification sociale d'Ottawa-Carleton réunit les résidents et résidentes de la région depuis sept décennies pour les informer et de les faire participer à des interventions en ce qui concerne les dossiers ayant une incidence sur le bien-être social et économique.

The theme of social assistance reform is not new in this province. For many years the social planning council has actively monitored and responded to social assistance reform initiatives put forward by the Ontario government. In fact, we wrote in 1988 in response to the Social Assistance Review Committee report, *Transitions*:

"We are greatly encouraged that the Ontario government has correctly identified the urgency of revamping the entire social assistance system in Ontario...and we strongly support the central theme of *Transitions* which is the absolute necessity of enabling people to reach self-reliance, both through greater participation in the labour market and greater participation in community."

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While these objectives continue to be part of the stated intent behind the Social Assistance Reform Act, 1997, we are deeply concerned by the underlying principles and many of the components of the proposed act which we feel will severely hamper and keep real reforms from occurring. Bill 142 is moving us back to an era where being in need means being less than a full citizen, with reduced rights, limited protections and subject to a life of mere subsistence.

Quite different from the days of *Transitions*, we are no longer in a time when full employment, as it's often referred to, is promoted as a possibility and when the social supports in our community are readily available for persons who need them. In fact, this bill is being introduced in a period when individuals and families on social assistance have far less chance of finding and keeping stable employment, are living with drastically reduced levels of assistance — welfare was cut by 21.6% in 1995 — and have higher costs of living, leaving them far more likely to be entrenched in poverty than their counterparts of 10 years ago.

Our presentation today will focus primarily on the Ontario Works Act. We will, however, speak briefly to you about the definition of "disability" — that will be brought forward by Gary Holmes — which appeared in

the Ontario Disability Support Program Act and which are serious concerns for many of us in this community.

What are the main principles and worries that we have? On va parler en résumé de certaines de nos grandes inquiétudes sur ces questions. There is not sufficient time to address all or parts of the areas which concern us with Bill 142, particularly given that there are some 80 pages in it and the fact that much of the substance of the reform will be in the regulations. We have therefore chosen to focus our presentation on six general areas of concern, highlighting specific aspects of the bill, anticipated impacts and recommendations.

Le projet de loi 142 nous inquiète surtout du fait qu'il alèse grandement les droits qu'ont les bénéficiaires d'aide sociale comme citoyens. En réalité, il risque d'accroître la difficulté des bénéficiaires à devenir autonomes et à long terme il crée un système qui coûterait davantage aux contribuables. Il est essentiel que la réforme que représentent les changements législatifs les plus importants apportés à l'aide sociale en Ontario depuis les 30 dernières années fasse l'objet d'une planification à long terme et d'une vaste consultation.

Ms Susan Learoyd: Bill 142 is unduly harsh. We are concerned that the underlying message communicated through the legislation is that welfare recipients are less than citizens. The legislation increases the protections to government, to taxpayers, to landlords and others while it reduces protections to individuals who are on assistance: increased information requirements, fingerprinting, reduced rights to appeals. This approach appears to be based on the belief that recipients of social assistance give up certain rights of citizenship when they turn to social assistance. The tone of the legislation is discriminatory towards the very persons who will be affected by it. The loss of a job, separation, illness or circumstances beyond our control could put any one of us — myself or any of you — on welfare, which I don't think should make us any less worthy as human beings.

I want to speak to you just a little bit about false promises and workfare. The very change in the name of the legislation from the General Welfare Assistance Act to the Ontario Works Act clearly illustrates the determination by the government to show the public, that those on welfare do not seem to be considered a part of, how it is taking strong measures to get recipients as quickly as possible into the workforce. Mandatory work for welfare is the most publicly visible aspect of this reform. Unfortunately, there appears to be very little effort being made by government to prepare local communities for the demands of the program.

In Ottawa-Carleton, the Ontario Works program began officially approximately three weeks ago. While the numbers of recipients participating in components of the program will be quite small at the outset, there are real fears of the program creating false hopes for the many recipients who really look forward to having access to training, to child care, to meaningful opportunities to participate in the community and good employment. With unemployment over 9% in this region, with very limited

dollars attached to training and with a service system under extreme pressure, recipients are not likely to move quickly off assistance, nor will a mandatory requirement make a difference. In fact, putting into place a mandatory workfare program, which research has generally shown has limited ability to achieve real outcomes without large investments and a strong economy, may cost all of us taxpayers much more in the long run.

Our concerns about workfare which we would like to highlight today relate not to the majority of welfare recipients, many of whom stay on assistance for no more than six or seven months, but to the groups of people who face greater barriers to employment, are more likely to be on assistance for longer periods of time and will therefore be the long-term participants of your workfare program. These groups include single parents, persons over 60 years of age and persons with disabilities who do not qualify under the new definition of "disability." It is clear that imposing mandatory participation in Ontario Works without the recognition of the barriers faced by these individuals will be costly to the system and not likely effective in reducing their dependence on social assistance.

We would like to recommend that the act should specify that sole-support parents be exempt from mandatory requirements where there is a child with special needs or where the youngest child is not yet attending school full-time. The act should require the waiver of employment requirements where there are special circumstances such as family violence. However, sole-support parents subject to this exemption should have access to employment programs and employment supports. We also would like to recommend that people over age 60 should be exempt from mandatory Ontario Works obligations which could be subject to sanction. However, they as well should be allowed access to programs and supports on a voluntary basis.

Mr Welch: We are concerned that Bill 142 gives the government of the day the power to determine individuals who are deserving of assistance and those who are not. This is a far cry from the recommendations of Transitions in 1988, which stated that "virtually no resident of Ontario should be automatically ineligible for social assistance." In fact, the Canada assistance plan included the requirement that income assistance be provided to all people in need regardless of the cause of that need. This requirement was dropped with the introduction to the Canada health and social transfer. Bill 142 goes even further to state that "the Lieutenant Governor in Council may make regulations...prescribing classes of persons who are not eligible for assistance."

While no current groups of recipients are explicitly excluded from receiving assistance, with the exception of youth 16 and 17 years of age, there is a danger that welfare in the future could be denied to those groups of people who are deemed less deserving. If we look to the US experience, this could mean denying or severely limiting assistance to young, single employables and to categories of immigrants, for example. I'm going to ask Gary Holmes to continue.

Mr Gary Holmes: Hello. I'm here today to represent the Canadian Mental Health Association's Ottawa-Carleton branch. CMHA is a non-profit organization involved in the planning for and delivery of services for people who have a serious mental illness. We have prepared a brief suggesting 10 essential amendments to Bill 142. The focus of our brief is to highlight the implications of Bill 142 on the lives of people who experience a serious mental illness such as depression, schizophrenia and manic-depression.

As an association, we have listened carefully to the concerns of many community members affected by mental illness and we have spent many hours discussing and deliberating the potential impact of Bill 142. Over the past six months consumer-survivors, board members and staff have met with elected representatives of the various levels of government to express our concerns regarding a new definition of disability. On the whole, we are very disappointed with the Social Assistance Reform Act and the implications for people with severe mental illness. In the few minutes I have here today I will focus on one of our suggested amendments concerning the definition.

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Concerning the definition of "disability," the most important issues for persons with mental health problems is whether the definition contained within the Ontario Disability Support Program Act is sufficiently broad and flexible to recognize the unique needs and circumstances faced by persons with mental health problems. We are proposing the following definition to replace what is now proposed in Bill 142, section 4(1)(a), schedule B. The definition should say:

"(1) A person is a person with a disability for the purposes of this part if,

"(a) the person has a physical or mental disorder that is continuous or recurrent/episodic and expected to last one year or more."

The word "impairment," in terms of explanation, does not reflect the nature of some mental illnesses. It implies continuous and ongoing difficulties. Because of the cyclical, episodic and recurrent nature of some illnesses, we are not always mentally impaired. We have periods when we are not impaired but still require income support. We have removed the word "substantial" because it appears later in the definition.

"(b) the effect of the disorder on the person's ability to attend to his or her personal care or function in the community or function in the workplace results in substantial restriction in activities of daily living."

The explanation: We have removed the word "direct" as it is too restrictive. It would eliminate indirect effects such as serious side-effects of medication and treatment. For example, a person with schizophrenia is prescribed a medication that seriously impairs her vision and her ability to read. Some individuals with severe mental illness are very able to function in two of these three categories. For example, a person could attend to their personal care and function well in the community but may not be able to function in the workplace. This individual still requires income assistance.

"(c) the disorder and its likely duration and the restriction in the person's activities of daily living have been verified by a medical professional, psychologist, mental health worker, social worker or counsellor."

The nature of the prescribed qualifications should be detailed in the act and not left to the regulations. If it is the intention of the government to permit verification to be done by social workers or mental health workers, then this should be made explicit in the act itself. For years some people, because of their disability, have been unable to obtain financial assistance because they were required to see a medical professional and were unable to do so.

Delete the exclusion of people with alcohol or drug addictions. The exclusion of persons with substance use problems does not recognize that many persons experience mental health and substance use problems concurrently. According to the Addiction Research Foundation and the provincial Ministry of Health, more than 40% of individuals experiencing mental illness also experience substance abuse concurrently. We are concerned about how a determination will be made for such individuals, utilizing the proposed definition. This is contrary to the Ontario Human Rights Code.

I would like to conclude with a message about the punitive tone of the bill and the implications for individuals living with mental illness. The Social Assistance Reform Act, 1997, represents a drastic change in the approach to delivering social assistance. The tone of the act is punitive and increases the stigma already attached to being poor and disabled. As consumer-survivors of mental health services, we are not criminals but are individuals with recurrent and cyclical mental illness and we need support. This act presents a shift from community responsibility for disabled persons to individual accountability for obtaining and maintaining income assistance.

Proposed measures such as finger scanning and fraud investigations add to the stress and anxiety of the daily lives of individuals with mental illness, increasing the likelihood of relapse and hospitalization and the dependency on income assistance. This contradicts the intention of the government to promote self-sufficiency and to get people off the system.

In conclusion, the Social Assistance Reform Act, 1997, is not an improvement from what at present exists for persons with disabilities. Thanks for listening.

M. Welch : On va continuer si on a encore du temps.

Le Président suppléant : Oui, vous avez quatre minutes, mais par contre vous coupez le temps pour les questions.

M. Welch : On va aller tout de suite à la conclusion, alors. On avait d'autres choses à dire, surtout sur l'aspect du traitement comme un prêt plutôt. Alors on arrive à la conclusion.

In closing, we'd like to bring to your attention a final concern. With this legislation and the regulation-making authority given to government, we are opening the door to far more serious changes to the system. The act gives sweeping powers to government to contract out "any matter relating to the administration of this act or the

provision of assistance." The privatization of welfare raises many concerns. How would success be measured if services are contracted out? What incentive would there be to provide service to people who are in need of a greater level of support? How would clients and the general public hold contractors accountable for their service provision?

Comme nous l'avons déjà mentionné au début, la réforme du système d'aide sociale est absolument essentielle. On n'est pas contre, contrairement à ce qu'on dit souvent. Nous croyons fermement à une réforme fondée sur le développement des ressources humaines plutôt que sur une approche punitive. Une telle réforme reconnaît que les personnes ayant besoin d'aide doivent être soutenues dans leurs efforts pour devenir autonomes plutôt que pénalisées. Elle établit les objectifs à long terme pour les intégrer au marché de travail par opposition à la vision étroite du travail obligatoire.

Nous prônons à l'adoption d'un système plus transparent, plus équitable et plus juste dans toute la province. Nous estimons aussi, comme citoyens et citoyennes, que nous dépendons les uns des autres et que le bien-être de chacun d'entre nous est essentiel à celui de la communauté toute entière.

Ms Learoyd : I will reiterate that in English. Reform of the system is absolutely essential. We strongly believe in reform which takes a human resource development approach rather than a punitive approach. This approach recognizes that individuals in need of assistance must be supported rather than penalized in their efforts to achieve self-sufficiency. It sets out long-term goals to integrate people into the labour market, in contrast to the short-sightedness of workfare. We strongly support a more transparent, equitable and fair system across the province. We also believe that as citizens we are dependent upon one another and that the welfare of every individual is essential to the welfare of the entire community.

Le Président suppléant : Merci pour votre présentation. Peut-être que je devrais allouer une question par caucus. One question per caucus, a very short one.

Mr Carroll : A quick question, and thanks very much for your presentation. It was very informative. On the issue of the government having the ability to exclude classes of people, the current act talks about classes of people also. It talks about prescribing classes of persons to whom benefits may be provided. If you would assume that people who are incarcerated are a class of people, would it not be fair for the government to have the ability to say to people who are in prison that they not receive social assistance?

Mr Welch : Yes. You could talk in terms of different classes, but we're more concerned about other groups of people. It gets complicated in terms of the prisoners and that whole aspect of prisoner rights and what not. What we're concerned about is exclusion, the debate around excluding 16- and 17-year-olds as if each time they get into a squabble with their mommies and daddies they want to leave home and go on welfare, which is not the case, putting aside the whole question of children who have

gone through social and physical abuse in their families and therefore run away and try to get some kind of welfare. I think it's more the whole stigmatization of what we're talking about, different classes of people who could be excluded.

Mr Carroll: But you wouldn't have a problem with prisoners as a class of people to be excluded?

The Acting Chair: I'm sorry, Mr Carroll. Mrs Pupatello.

Mrs Pupatello: By regulation today, prisoners are excluded. The reason the government itself has done so much in error in terms of prisoners still collecting welfare is that the ministries don't talk to each other. It's an internal, bureaucratic problem they have not solved. To put out this class of people as prisoners Mr Carroll believes is very saleable to the general public. The truth is, there are controls for that and the minister simply screwed up.

It reminds me of the Wisconsin model. After they brought in workfare, a couple of years later, the deputy minister is on record now as saying they administered it very badly. What they did was have massive layoffs in the bureaucracy, something that is happening in Ontario as well. They did not offer the kinds of supports like child care supports that they knew were desperately needed for workfare to work. They did not have the employment supports in place.

When we see other jurisdictions going down the road of workfare, knowing they now publicly admit to its failure because of some significant pieces that are missing, and we watch Ontario going down the same path, with others acknowledging that it's not going to work unless — this government fails to recognize that they don't have the "unless" either. What comment do you have on that?

Ms Learoyd: I would like to add that we have a very good example here in Ottawa-Carleton which many of us in this room have probably been involved with called the Opportunity Planning project. That project showed through a two-year demonstration that it saved, I believe, \$1.5 million per year for this region. It involved a sufficient personalization of the plans of individuals setting objectives, identifying supports, identifying resources in the community. We certainly can share that information with you and we have a summary of the evaluation of that project.

Mr Wayne Lessard (Windsor-Riverside): I appreciated your remarks with respect to the bill and your characterization of it as being unduly harsh. You mentioned the punitive tone of the bill as well and you certainly narrowed in on the difference between what this government says it intends to do and what it actually does.

I was especially interested in your comments about the definition and how that would impact persons with mental disabilities. If the definition remains the same, what do you see happening to people with disabilities and their families and dependants?

Mr Holmes: I guess there is a real concern in terms of the word "substantial." Will people new to the system be considered disabled enough? The fact that they have to be

considered impaired as well in their daily living in the community and in the workplace is a concern.

I have a disability of mental illness. I can function fine in front of you right now. I have been hospitalized 13 times. I can function okay at home. I have tried work numerous times, even this winter, and became seriously ill as a result, so it is recurrent, it is cyclical and it is episodic.

We have times when we are doing all right, but will it be flexible enough overall? In terms of "substantial," how substantial? It's not a great definition, and the removal of the word "direct" — side-effects from psychiatric medications can be very severe and disabling. Part-time work: Will that mean we can work six hours, eight hours, in terms of having a little bit of work experience or does the inclusion of the word "substantial," if it's left, mean we just can't work at all? That's really not a good situation in terms of getting us off the system. Overall, it doesn't look flexible enough and inclusive enough for people with cyclical, episodic types of mental illness.

Le Président suppléant : Merci pour votre présentation et bonne chance. Our next deputation will come from the city of Nepean, Doug Collins. Is Mr Collins in the hall?

Mr Cullen: I think he's running for mayor in Nepean.

The Acting Chair: I realize this.

Because we are 20 or 25 minutes ahead of our time, I will call a recess for 15 or 20 minutes at the most.

The committee recessed from 1023 to 1038.

DOUG COLLINS

The Acting Chair: We would like to welcome, for now, city of Nepean Councillor Doug Collins.

Mr Doug Collins: That's very gracious of you. It is an honour to appear before you today. My name is Doug Collins. I am a Nepean city councillor representing the ward of Barrhaven. I would like to state for the record that the views I express today are my own and they do not represent the official position of the city of Nepean. I do believe, however, that my opinions are a fair representation of the feelings expressed to me by the residents of Barrhaven and the residents of Nepean as a whole over the past six years.

I've spent the better part of my professional career in the social services field. As a matter of fact, I'm presently on a leave of absence from the Ministry of Community and Social Services to seek the position of mayor for the city of Nepean. Starting off in the early 1970s, I worked as the director of Glenholme Residence for mentally retarded children and adults and moved on then to the Ministry of Community and Social Services as the mental retardation coordinator for the district of Thunder Bay, and ultimately ended up in Ottawa working in social services. I feel that I have the personal background to have some insight into the subject that is today being addressed by this committee.

The present government was elected in 1995 with a mandate to make change to the province of Ontario that

would address concerns that many Ontarians had expressed about how our province has been functioning. To that effect, the present government has acted upon its promises. No matter what your opinion on the changes taking place in Ontario is, it is an acknowledged fact that this government is about change. To this end, I appear before you today to address Bill 142.

As a resident of Nepean for over 18 years, I have heard many comments about the welfare system in Ontario. Again, the general consensus has been that the system has not been achieving what it was originally designed to do.

I do not intend to address the aspects of the bill dealing with the Ontario disability support program, because I understand that there are many groups that have appeared or will appear before the committee with significant expertise on this subject. I would like to focus my remarks on the Ontario Works program. I intend to address the bill in terms of how it deals with the major concerns that I have heard expressed to me by my constituents, neighbours and friends.

First, many Ontarians believe that it is presently far too easy to defraud the welfare system, and I bring to your attention what appeared in our morning paper. People in Nepean see this and they feel that there's something wrong with the system when they see this kind of thing appear in the paper. I'll just pass that around for you. Many groups opposed to the Harris government argue that this belief is exaggerated, but I think it suffices to say that one person committing welfare fraud means that another person is not receiving the assistance that they need and deserve. I hear particular complaints about the system when criminals housed in Ontario jails are found to have committed welfare fraud.

The bill addresses the concerns of Ontarians about fraud in a very reasonable fashion. The proposed enhancements in the ministry's ability to combat fraud through electronic means is one of the more positive uses of technology that I have heard recently. Despite the concerns of privacy advocates, the removal of barriers to information sharing among provincial government departments should allow for a much more efficient and cost-effective means of preventing fraud.

A word of caution, however. The use of fingerprinting or other technology to identify social assistance recipients scares many people. The government must make every effort to clearly explain how the system will be used and what safeguards are in place.

I am also encouraged by the proposed penalties that will disqualify those who are convicted of welfare fraud. I believe that these measures will go a long way to address the lack of faith that many Ontarians have in the welfare allocation system. Fraud may not be as pervasive as some think, but that does not diminish the problem and every inmate that illegally collects a welfare cheque undermines public confidence in the system.

Second, many Ontarians are convinced that the system fosters dependency. In response to these concerns, the bill addresses the concept of mutual responsibility that was first introduced under the Ontario Works initiative in

1996. I believe that the bill addresses many of the concerns that I have heard expressed. I am particularly pleased that a renewed focus by the delivery agent will be placed on offering assistance to recipients to assist them in becoming self-sufficient. This focus has been missing from the administration of social assistance in this province for some time.

Many Ontarians like myself believe that a renewed emphasis on the promotion of self-sufficiency among welfare recipients is needed. Helping those on social assistance who are able-bodied to get experience and training in their communities is a concept that is long overdue. Despite the criticism from opponents of the government, I believe that the silent majority supports this aspect of the bill.

Last, many Ontarians are concerned that there is a great deal of overlap and duplication in the welfare delivery system. The bill addresses this first and foremost by replacing three existing pieces of legislation with just two. It also ends a two-tiered delivery system by having the level of government which is closest to the people, municipal government, deliver the services. The bill also reduces the number of municipalities delivering assistance, effectively ensuring that available resources are spent in the most cost-effective and efficient manner possible. The end result of this streamlined delivery is a system that will be better able to understand and respond to the needs of its recipients. Across the province, municipalities will now be given the opportunity to prove that they can deliver services more efficiently, more effectively and with better results.

In closing, I would like to say that I think the bill provides the legislative tools necessary to improve public confidence in the welfare system. More important, if well administered, this bill has the potential to do what I think all of us in the room can agree upon: put thousands of Ontarians back to work.

Thank you for your attention. I would be happy to answer any questions that the committee may have for me this morning.

The Acting Chair: Thank you, Mr Collins. We have four minutes per caucus.

Mr Cullen: Thank you, Doug. Good to see you here.

Mr Collins: Good to see you, Alex. How are you?

Mr Cullen: I'm doing well. I hope your campaign's going well. I have a comment and a question.

The comment is, as you know, here in Ottawa-Carleton, fraud within the region is counted at less than 3% of caseload and has often been ascribed to bureaucratic error more than actual fraud, because of the overburdened caseload for social workers. I understand you passing around this sensational account, but I think you have to agree with me that it does not characterize our welfare system, certainly not here in Ottawa-Carleton. That's my comment.

My question deals with the purpose of the bill, which you have alluded to. The Ontario Works Act is to promote self-reliance through employment so that those in need will satisfy the obligation to become and stay employed

etc. How does making people aged 60 to 64 participate in the Ontario Works program make them more employable? How does it make them more self-reliant, when indeed in our economy here in Ottawa-Carleton, with our 9% unemployment rate, with the high growth in the high-tech sector requiring specialized skills, for these folks the train has already gone?

Mr Collins: A very good question, Alex, and I do appreciate your bringing that forward. First, on the 3% being more an administrative staff error, I don't believe that to be the case. As a matter of fact, what you're seeing is the perception of the public that it is much more extensive than that.

Mr Cullen: But that's not the fact.

Mr Collins: But it is the perception, and it is important that any system that has that perception out there be corrected, I believe.

In terms of the older people who are included in the bill, I think it is important to remember that 64 in this day and age is very young. I have 70-year-olds working on my campaign who put some of our 20-year-olds to shame. They feel that there are opportunities out there for placements and they are looking for placements.

Mr Cullen: One of the issues that has been presented to us is the intrusiveness of this particular bill in terms of the ability to walk into people's homes, the ability to take liens against property, the inability to provide for appeals for decisions made. Within your experience, do you believe that, just on the issue of due process, bureaucrats' decisions should be final and not appealable for review, that the decision of the single administrator at the point of access is it and that's all?

Mr Collins: Certainly, Alex, people don't want to think that there are no avenues for appeal, but my understanding is that the Social Benefits Tribunal, the new name for the SARB, will have the opportunity to review some of that.

Mr Cullen: Only some. For example, in the context of determining that you will not receive your cheque and it will go to a third party, establishing a trusteeship, that is one thing that's not appealable. Do you think it's appropriate that you on the spot can make that decision and that's it?

Mr Collins: I know of course it doesn't seem that sort of thing where someone has the final say, but I've worked alongside the people in the income maintenance department for 24 years and I can tell you I've never seen a finer bunch of professionals in terms of the needs of individuals and concern about individuals.

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Mr Kormos: Thank you, sir. I appreciate you coming by. I understand. You are not alone in the views that you hold, but you cause me to recall what Reverend Frazer told us yesterday on behalf of the North Bay Presbytery of the United Church of Canada. Among other things, she said that demonizing any group of people by describing them as frauds is wrong.

She referred again to the studies that have been spoken of here indicating that welfare abuse ranges no higher than

3% and is more likely around 1%. She went on further to say that the real fraud is when the image of the poor is misrepresented and a type of economic cleansing is encouraged by the type of legislation we now have before us. On the other hand, little has been said about tax fraud in this province except for Premier Harris's statement at the beginning of his government's mandate that cheating on one's income tax is just human nature.

I appreciate your acknowledgement that there's a misperception that fraud is higher than the statistical 1% to 3%. Isn't it our job, as elected officials— you're a leader in your community — any one of us, to clear up the misperceptions? Isn't that our job rather than to exploit them for political gain?

Mr Collins: Thank you, Mr Kormos, for that. First off, I should say that I agree with the statement of the United Church minister that we should not be demonizing the poor. But what I read in the social services legislation that is before you today is that we are trying to move it away from a lifestyle that people have gotten accustomed to and provide an opportunity, then, as a social safety net, which it was originally meant to be. Certainly the poor are among us and we have to continue to find ways of providing opportunities for them to be successful, but it isn't necessarily always a straight handout.

Mr Kormos: I ask you, then, whether you support the slashing of general welfare assistance rates by 21.6%, and if you do, how does that help people escape from poverty, to wit, by making them yet poorer?

Applause.

The Acting Chair: I'm sorry —

Mr Kormos: Don't apologize, Chair. You have nothing to apologize for; this government does.

Mr Collins: We certainly like to have the applause from the audience one way or another, don't we?

The issue around the cutting of the rates, I understand, is that Ontario was paying a higher rate than any other province and they were bringing it down to alignment with the other parts of Canada.

Mr Kormos: But do you understand that people don't live on the rates that are being paid?

The Acting Chair: I must go on, Mr Kormos.

Mr Klees: Thank you for your presentation this morning. I find your comments interesting regarding Ontario Works. You're a councillor in this area.

Mr Collins: I am indeed, yes.

Mr Klees: One of the previous presenters made reference to an existing program called Opportunity Planning. I don't know if you're familiar with that. I would think you are. I spoke with her following her presentation and the reason I wanted to have an opportunity to discuss the program she referred to is that many of the things she said are necessary for us to help people who are on social assistance transition back into the workforce are very much part of Ontario Works. I think unfortunately — and it's understandable, particularly here, because Ontario Works is just getting started, but I asked her for some information on Opportunity Planning, which she gave me.

As I read what Opportunity Planning has done, it is very much along the lines of what is intended through Ontario Works, which is to begin the shift in thinking from simply qualifying people for social assistance to recognizing them as individual human beings; addressing them as individuals; working with them to find out what their personal circumstances are; identifying the barriers that stand between them and participation in either a full-time or part-time job; providing training supports; and working with them to get them back into the community. That is the essence of Ontario Works.

It's interesting that one of the Opportunity Planning results is that the OP clients they worked with as a group remained on assistance considerably shorter than the general caseload, and there was significant support from the individuals who were involved in the program.

When you talk about exploiting people, if there's any exploiting going on around this program, around this proposed legislation, it's by those who are misrepresenting what the intent of this legislation is. Exploiting people is using them as a political football rather than allowing us to deal with the facts of the proposed program.

Mr Kormos: Frank, that speech sounds better in the original German.

Mr Klees: Mr Kormos doesn't like the facts to be presented so he interferes with my time and with the time of the witness.

The Acting Chair: Mr Klees, I remind you that you have 30 seconds left.

Mr Klees: In that 30 seconds I just want to make it very clear that public hearings are for the purpose of clarifying legislation, for the purpose of hearing from people. Unfortunately, the members of the opposition, both the NDP and the Liberals, have done everything they can to this point to misrepresent the intent of this legislation, and it's shameful.

Mr Cullen: We don't need this lecture, Mr Chairman.

Mr Peter L. Preston (Brant-Haldimand): Alex, you're like a Pekinese, always yapping and never saying anything.

Mr Cullen: — the program and your government killed it.

The Acting Chair: Alex, please.

Thank you, Mr Collins.

1100

CANADIAN ADVOCATES FOR PSYCHIATRIZED PEOPLE

The Acting Chair: We'll now go on with the Canadian Advocates for Psychiatricized People, Sue Clark, the coordinator, and Ms Scharf. Good morning.

Ms Sue Clark: Hello, everybody. Good morning. My name is Sue Clark. I am a social activist and I have been for 15 years. I am very outspoken and I get to the point. I am a person on a pension from Comsoc, the Ministry of Community and Social Services. I have received a disability pension since 1984. I have post-trauma stress

syndrome, having suffered severe abuse in childhood and also in two marriages. Bear with me because I stutter.

Bill 142 blames me for not being employed. I have been a client of vocational rehabilitation services for 15 years, since 1982. I have insisted since then that I want to be a social worker. At present I am the coordinator of — a very long title — the Canadian Advocates for Psychiatricized People, a lobby group of former psychiatric survivors like myself. I have lobbied governments, I have had a crisis line and I have referred my peers to services. I have done social work with no pay and I have no school degree or diploma. I've been doing that since 1984.

I have lived in Ottawa Housing. I was raped in 1988 when I was separated from my second husband by a best male friend for six years whom I trusted. I had to leave my apartment, which was not subsidized at that time, because my roommate, a female, took off on me. I had to move to Ottawa Housing at Caldwell immediately because my second husband was still coming to my house and abusing me. I lived there for five years and my rapist stalked me for another two years. I went to the Ottawa police and they did nothing for me. Jane Scharf, my friend and also an advocate, fought with the police. Finally, the police said, "Okay, Mrs Clark, we're going to see your abuser and tell him to leave you alone," and he has.

I went to the justice system in 1993 for eight months. My crown did nothing for me because the police did nothing for me. I am a very strong person, however. I am not here to look for pity. I am here for you to listen to my situation and it is grave. I wouldn't be up here if I was not a strong person. I've survived many horrendous things in my childhood and in my marriages. I would not want to discuss it here. I have many flashbacks like a war vet. Jane Scharf knows this and my boyfriend knows this and my brother. He also has post-trauma.

Today is a bad day for me but I am coping very well. I am a good speaker and I know how to speak because I know that a lot of my peers out there are going to suffer in the future. Bill 142 is archaic. It is not legislation at all. It is going to take away our rights for the disabled, namely, my rights for education, which I have not gotten for 15 years. If I sound a little bit emotional, that's part of post-trauma. Please bear with me. That's part of it. Get used to it during my presentation.

I recently had a SARB, Social Assistance Review Board, on October 9. Jane Scharf was a witness there, but she couldn't be in the same room because the VRS people had their day, but I haven't had my time to do the presentation yet. But she was a witness, yes.

What happened there was I had to sit for two and a half hours while Wendy Riley and Anne Amys of VRS, Ottawa, humiliated me. They called me everything under the sun that you could think of. I went in 1988 and VRS forced me have a psychological report done by Dr Darla Drader. Here is one of the sentences, which is so humiliating it still traumatizes me to this day. Dr Drader said: "Although she" meaning me, "is a rather attractive lady and reasonably well groomed, she is obese and this cert-

ainly detracts from the impression that she makes, at least initially."

What would my weight do for me not to be employed? I recall that the former Liberal health minister, Ms Bégin, was overweight. She went right to the top, didn't she? What does fatness have to do with employability? Excuse me. It's about time that the fat, like the liberation, becomes a group here in Ottawa. I'm not going to be oppressed for my fatness any more. Excuse me.

She also states in this same report: "There is also the evidence of some anti-social tendencies as well as paranoid ideation." I'll tell you that I was psychiatrized from 1972 to 1990. I have been out of the psychiatric hospitals for eight years and I have been off psychiatric medication for seven years. I see two feminist therapists. At the Rape Crisis Centre I see Laura Cain. I also see, at the Women of Wisdom Centre, Heather Black. I am doing very well. I also have MPD, multiple personality disorders. I am coping very well and I celebrate many parts of myself which were caused by severe trauma. I don't call it an illness.

In this same report in 1988, she says there is paranoid ideation. I was never treated for paranoid ideation or psychosis. I was treated for severe suicidal tendencies caused by severe trauma and severe depression, which I still suffer from time to time with no medication. I talk to my friends to cope and I call the crisis line at SASC, the Sexual Assault Support Centre, here in Ottawa and I have not had a crisis, the intervention of hospitals, until the day after my SARB I went into crisis because I was called these things, which are right here.

I'll say off the top of my head it was so humiliating. She said I had no writing ability. Well, I've written an article for WOW and my therapist said I am a very good writer. In grade 9 I had an English teacher who said I am a fine writer. Also in this report it said that I had an unfair view of myself. I got funding for my former group of a few thousands dollars, so I called Dr Drader and said, "Excuse me, but I want you to look in the Ottawa Citizen."

During that SARB just two weeks ago, I was called many things. I've got a list here. It said that I had uncivil behaviour, paranoid ideation. It said I would never be able to be trained ever in my life or to be employed ever again. I did work at National Defence from 1975 to 1978 and I worked for the right-hand man, for the surgeon general.

1110

Here's a list, everybody, and I hope you mark this down. I have poor problem-solving ability, poor writing ability, poor insight; difficulty with abstract thinking, and I have a belligerent attitude, uncivilized behaviour, a confrontational manner "to get her way," "on occasion the police have been called." I'm a social activist and that's the normal part of the job, which I don't get paid for. "Does not have emotional or problem-solving or communication skills." I've been in the press several times, and the press always tell me I'm very articulate. "Has difficulty in concentration." "Denies she needs psychiatric help." I asked the advocate, Harry Funk, "Ask Wendy Riley what she means that I need psychiatric help."

Wendy Riley said, "In my opinion, Mrs Clark needs to be on psychiatric medication and she needs to see a psychiatrist on a regular basis." I've been out of that system for eight years. Give me a break and I'm doing good.

Then "a problem handling stress." What I have been through in my life, I think I've handled stress very well. I'm speaking here today and it's very stressful and I think I'm coping very well. Then I have "antisocial tendencies." I don't think so. I have many friends and I'm very vivacious, I've been told, by psychiatrists, "Very vivacious, outgoing and lively."

"Paranoid ideation." No. It has never been in a psychiatric report. I said I had suicidal tendencies — I used to have, not any more — and that I suffer still from severe depression. No medication. "Emotional." It's called instability. Limited tolerance to frustration and I have an inappropriate view of myself because I thought I couldn't get funding and I got it a week later — well, according to Dr Drader. I am unaware of my difficulties and the interpersonal difficulties. "Quite serious psychopathology." Excuse me. "Fragmented thinking." I don't think so.

They called me everything in the book for two and a half hours and then I stood up and I told the vice-chair of the SARB, Mrs Dorothy O'Connell: "I may be out of line here, but Wendy Riley — I've had enough of this for 14 years and this is derogatory and stigmatizing. I want my education." I was sent by VRS to school in 1995 for six weeks and I had no accommodation. I had trouble because I had to walk in the tunnels, and to be on the bus has traumatized me because of the abuse by men, a lot of men around me. Especially the buses going to school are very crowded and the tunnels are very crowded. What I needed was to have an escort to get me there and I needed to have more accommodation, which I did not get.

I'm going to let my friend and another strong woman activist speak. She's here to support me, but I'm going to read one little thing here, please. I'll finish very quickly. I'm sorry it took so long. I stutter but that's another disability.

Here is something that was written by Pastor Martin Niemöller:

"In Germany they first came for the Communists and I didn't speak up because I wasn't a Communist. Then they came for the Jews and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists and I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics and I didn't speak up because I was a Protestant. Then they came for me and by that time no one was left to speak up."

That's the end of my presentation. Now Jane Scharf can have the floor.

The Acting Chair: You have six minutes, Ms Scharf.

Ms Jane Scharf: You have the written presentation if we don't get through it all.

I am here to speak up for post-psychiatric patients and people with physical disabilities and so on, and people with whatever problems have brought them on to the system.

I want to give some personal testimony to support Sue's difficulties with vocational rehabilitation over the last 15 years. I met her in 1988 and she had a number of tangible crisis problems at that time, such as her rent was equal to her entire pension and she did not have any counselling or appropriate treatment at that time. VRS's response to her request for assistance was to send her to a psychiatrist who made a report.

I'm not a psychiatrist but I have a degree in psychology and I'm at least qualified to say that the report was not valid. It used her own testimony of her history as the basis for the facts that were presented in her report. Anything that Sue said about herself that was positive was qualified in the report as "she states" or "she thinks" and actually went so far as to say, "We know it's not true and it's unrealistic" and whatever. If it was negative, it was a fact. There was even one sentence that said, "Sue states that she had good marks in elementary school but she did poorly in high school." Without exception, it went about to undermine and to negate any abilities or accomplishments or strong points that Sue had and just ripped her from one end to the other.

As she said — I don't know if she said it, but it's in her report — she has a one-year college diploma in secretarial science in which got a B+ average. She took one university course in 1977 in which she got a B+ plus. She did reasonably well in employment. She was a private secretary and she had a high level of responsibility. She had secret clearance. These were, "she states," "she thinks," whatever, "We'll just ignore all that." But she did say she did some clerical work at that time so the report sums up that they felt VRS should work on reducing Sue's expectations and help support her to become a clerk.

It completely ignores the problems that Sue is experiencing. She has post-traumatic stress so it is important to look at the needs to reduce the stress in her environment and to look at the need to reduce the potential stress that may be caused by employment. Her own requests recognize that. She understands that she needs to either work on her own so that she can work out strategies to deal with panic attacks and whatever if they occur, because they are triggered sometimes without any warning, or she needs to be in a highly supported environment in which there aren't individuals who are triggering her response.

After years and years and years VRS finally said, "Okay, we're going to sponsor her to take two university courses." There was a plan worked out whereby she was supposed to be given accommodation for short-term memory problems and for counselling for emotional support, because at that time she had lost both her therapist and her counsellor because of cutbacks to SASC. I forget where her therapist was at that time but she had lost both at the same time so she asked VRS if they would help with the payment to continue this.

The plan that was worked out was that VRS would do nothing and OSAP would pay for her two courses and the university would provide the counselling. What actually happened is that no counselling was provided. Sue said she was having a tremendous problem with the buses and

in the tunnels and then a 400-student class once she got there. I think she could have handled the class if she hadn't been stressed out by the buses and the tunnels. But no, that was her problem.

Now they are saying, "We did support her and she failed," and they didn't. They didn't provide anything, zero. The only thing they spent in all that time with her requesting and re-requesting assistance was an assessment by Darla Drador. That's it, period. Then you guys want to come around and say: "We know what the problem is. These are all a bunch of lazy bums that don't want to work. So let's get a big stick and whack them. Get them going." That's not the case, and that's not going to be the result. You need to put the proper resources into place. If they were in place now, people would be responding to them and they would be back to work.

1120

That's not happening and I don't see that as the basis for Bill 142. The rights to assistance with voc rehab are there now but it has never been respected by the succession of governments that we've had over the time I've been witness to this system.

Now you want to take what precious little is left there, which would throw Sue right out on the street. If you want to rip her housing with other legislation and you want to take her pension, well, it's not going to give you the results that you're suggesting it's going to.

The Acting Chair: I'm sorry but I must —

Ms Scharf: Okay, I'm done.

The Acting Chair: Thank you for your presentation. Your time has expired.

WEST END LEGAL SERVICES OF OTTAWA

COMMUNITY LEGAL SERVICES (OTTAWA-CARLETON)

The Acting Chair: We'll now go on to our next presentation, West End Legal Services of Ottawa, Sonia Levesque-Parsons. Good morning. You have 20 minutes for your presentation, and any time left will be used for questions. You may begin.

Ms Sonia Levesque-Parsons: Thank you. My name is Sonia Levesque-Parsons and I'm from West End Legal Services. I also have Jane Hueston here with us from Community Legal Services in Ottawa. We are part of the clinic system in Ontario. I'm sure this committee has heard from some clinic workers in other presentations before this committee. I know that recently there were some public hearings in Toronto where the Steering Committee on Social Assistance appeared before this committee and a brief was presented to this committee, and I wish to say that we endorse the bill that was provided to the committee at that time.

I have provided you a copy of the brief that I will be speaking about today. I cannot address all the issues that are contained in this brief, nor in Bill 142, but I will try to focus on one main subject, that being how Bill 142 will

affect women who are leaving or seeking to leave abusive relationships.

As clinic case workers we do assist many women and their children who find themselves in need of social assistance when leaving an abusive situation. In fact, many times once a woman is reassured that she may be eligible for some form of assistance once she leaves the abusive relationship, it encourages her to leave such violence. However, the proposed changes in Bill 142 will not only affect women who have already fled an abusive relationship but will have a direct impact on the women who are seeking to leave an abusive relationship.

Currently, the Ministry of Community and Social Services has a violence protocol whereby some discretion may be used for eligibility concerns for women who are applying for social assistance once they leave an abusive situation. However, Bill 142 allows for no discretion whatsoever. Here are some examples that I will talk about. All these issues that I will be talking about are common in both the Ontario Works Act and the Ontario Disability Support Program Act.

The first one is eligibility determination, which is found under subsection 7(3) of the Ontario Works Act. It states that "No person is eligible for income assistance unless" the person provides the information and the verification of information required to determine eligibility, including personal identification, financial information, and any other prescribed information. We don't know what that is until the regulations come out.

The social assistance system right now does require that people provide information to determine eligibility. However, Bill 142 goes much further. Right now the system states that a person "may" be denied assistance if there is failure to provide information. There are no discretionary powers whatsoever in this particular situation.

Many women when they flee abusive relationships will leave without personal identification or some documents that may be required by social assistance delivery agents. There may be some difficulties with financial information because a lot of times they are shut out from that information. Does this mean these women will be denied assistance because they are unable to provide this information in a timely fashion?

We recommend that this committee look at the proposed amendments that I have included in my brief and that instead of saying that no person shall be eligible for assistance, it should only read that an administrator or director "may" deny assistance. It leaves room for discretion based on the circumstances.

The second issue is third-party information, which we find at subsection 74(3). It says that there may be a requirement for a person to provide personal information about a third party that is relevant to determining a person's eligibility.

The concern we have with that is that if we see currently what's happening within the legislation, often abused women have a hard time proving they are not residing with their former spouses. However, the way the legislation is worded right now, it is possible to provide

some evidence that they are living by themselves and not with another spouse. This particular amendment, or this proposed section, seems to indicate in real practice that unless you are able to provide very specific information about the third party, being perhaps the ex-spouse, you may be denied assistance. Does this mean we have to prove where the other person lives? How do we do that? If you're in an abusive situation, the last thing you want to do is to speak to your former spouse. You don't want to put yourself in danger of further violence, and this is a significant problem that may arise. This particular section should be completely deleted.

The third section is subsection 21(4) of the Ontario Works Act, which is notice of overpayment from an ex-spouse. If I read this section carefully, it seems to me that if someone is living with a spouse, in the context of abusive relationships, and the husband is receiving social assistance in his name, once the woman flees the abusive situation, if the man had incurred an overpayment, a notice will go to the spouse, the woman, as well, regarding this overpayment. There are no privacy issues discussed. There are no safeguards whatsoever for women who are hiding from their ex-spouse. Since, for example, the husband may be a party to the proceedings, he would obtain the address of the former spouse. This clearly could jeopardize the safety and even the lives of women and their children.

A fourth issue was family support workers, which is found under subsection 59(1). It appears that both the Ontario Works Act and the Ontario Disability Support Program Act may designate persons as family support workers within the delivery agencies.

The concern with this is that there is potential for a conflict of interest. Most women right now don't qualify for legal aid for separations, divorce, or any kind of family law issues because of the cutbacks in legal aid. Giving all the powers to family support workers, who are employees of the ministry, certainly could create a conflict of interest. There will be no independent advice. Their primary area of concern is to obtain support so it will reduce the amount of assistance to give to the woman. Does that mean the court orders or the settlements that will be reached will favour more the ministry than the woman and her children? There are no safeguards, again, in this particular section.

Finally, there is an issue of subrogation, which is under 70(1) of the Ontario Works Act, and there is a corresponding section in the Ontario Disability Support Program Act. This is the part where the delivery agent may commence proceedings in various other boards to obtain moneys if there is any loss.

What we could see happening is that people, under the Ontario Works Act or the corresponding Ontario Disability Support Program Act, start proceedings in Criminal Injuries Compensation Board, victims of crime, which they could do without the consent, from what I understand, of the person it affects.

There is again no safeguard as to whether or not there will be some exceptions. What happens to people who simply want to put this behind themselves, the abuse that

they've lived? What about the people who do not want to face their abusers or do not want to be revictimized? There is no discretionary power in that particular aspect either.

In conclusion, before conferring all of the powers without any discretion and without any safeguards to this particular class of people, I think it's important that this government ensure that women and children are protected.

1130

Ms Jane Hueston: I would just like to add to what Sonia said by stating that we also agree with the social planning council's characterization of this bill as unduly harsh and punitive. I think it's clear that the focus on accountability is to the detriment of providing for need. Certainly the public wants a system that is less susceptible to fraud, but accountability to taxpayers also means providing for the need. That is what Ontario citizens count on a social assistance system to do: to provide for need. They want to know that people have food, shelter and medicine. The problem with this bill is that it puts protection of the public purse ahead of providing for need.

Before I refer to my brief, I just wanted to comment also that with this bill we're going from a system where the general welfare act and Family Benefits Act are comprised of about 20 sections and then there are twice as many regulations. In this bill, we have three times as many provisions, and I presume we're going to have three times as many regulations, because every section refers at least once to regulations. It will be impossible for recipients to know what the rules are. In fact, I think it's going to be very difficult for workers to know what the rules are. This is going to be a nightmare to administer. That also means there are going to be lots of mistakes. So it's very important that there be a provision for there to be no recovery of overpayments that are caused by the administrator's error. There currently is no such provision.

In the written brief I've provided to you, I address four essential points. In our practice at Community Legal Services, in all areas of social assistance, by far the greatest number of cases we have handled have been with regard to disability. In our view, this definition of "disability" in the bill is, as you have heard many times, far too restrictive. It is going to disqualify and exclude many persons with real disabilities.

While the current provisions permit disabled persons to participate in employment, volunteer activities and training, the proposed definition will discourage such efforts because the new definition requires a person to prove substantial impairment in all areas of functioning: in personal care, in functioning in the community and in functioning in the workplace. A person who shows an ability to contribute through volunteer activities one or two days a week or three to four half-days or to work three to four half-days a week will risk losing their only income. So it will not be safe for persons with disabilities to demonstrate the ways in which they are capable; again, contrary to the government's stated intention. This definition will hurt the disabled and should be amended to permit a person to qualify if he or she proves a substantial

impairment of functioning in one of those three stated areas.

It is important to note that in practice the vast majority of persons who qualify for disability qualify under the current definition of "permanently unemployable." While disability groups lobbied to get rid of the stigma of that label, they did not intend to get rid of the category; however, it is gone. As I said, most people qualify currently under that definition. Most of them will not qualify under the proposed definition because they can attend to their own personal care. That's a huge problem.

We're told that persons presently on assistance will be grandfathered. They will be transferred to the ODSP in January 1998. But all of those persons are subject to review of their eligibility either annually or biannually for most of them. When they're tested against this new definition, they are going to lose their benefits. I would say that most would lose their benefits, then, within three to five years after that definition comes into play.

Typically, recipients receive a few days' notice before their entire income is cut off. They'll be sent to Ontario Works, and their income is going to drop by 45%. So the immediate effect is going to be that they won't be able to pay for their housing. We know the shelter rates are grossly inadequate. It's very easy to see that when you compare them to market rents. So, as happened when the welfare rates were dropped, we're going to see another shift of people into homelessness or into subgrade housing.

We, as advocates, have worked with other definitions of disability in the Canada pension plan and the Workers' Compensation Act as well as the Family Benefits Act. We know the difficulties in interpreting these definitions and we can firmly state that this one is a very tough test. As well, we agree with others who have said that the exclusion of persons with addictions from qualifying for disability assistance is indefensible discrimination, and that should be deleted.

I want to talk about the elderly; specifically, where are the protections for the elderly in this bill? As I recall, Premier Harris promised to protect the disabled and the elderly. However, the categories of assistance we now have for 60-to-64-year-olds and for those over 65 who don't qualify for old age security are gone in this bill. A person over 60 who is applying for social assistance is doing so because at that point they have no income, they have depleted their assets and they are unemployed. Those persons are facing long-term poverty. That is why we have had the categories of assistance, to recognize that they will be in long-term need and they will have a need for a higher rate of assistance.

Whereas a person receiving that assistance now can qualify for \$930, an applicant after January 1 will stay on Ontario Works, presumably getting the \$520 welfare rate. It's a miserable level of assistance. Surely the person would not be able to afford an apartment and food; they're going to have to move to rooms.

I suggest that the categories of eligibility for those 60-plus should be retained under the Ontario disability

support plan. It can simply be renamed the Ontario disability and elderly support plan.

One of the more offensive provisions in this bill is the authority to garnish social assistance. I personally find this appalling. The assistance rates were reduced by 21%. We know people cannot pay for shelter without using their food budget. When calculating assistance, the debts are not taken into account; it's solely a calculation of shelter benefit and basic allowance for all other needs. It's a subsistence level income, and if you reduce it by even a dollar, you are causing a great deal of hardship. That has been recognized, again, for the past 30 years and social assistance has been protected from any creditors; the only deductions made were to recover overpayments of assistance.

Now the government proposes to allow collection of support payments and government debts from assistance. We don't know how much will be permitted to be deducted. That's going to come out in regulations. This provision should be scrapped. To permit the reduction of social assistance by collecting debts, by paying debts, is contrary to the stated purpose of the legislation, which is to provide for need. You can't do both.

There will be compounded hardship, because if a person has combined income from another program, that other program, be it perhaps Canada Pension, may be garnished 50% to pay for support. So they will be getting much less income than is actually recognized by social assistance and their social assistance can again be cut to pay the debt.

If the provision is retained, we suggest that a safeguard against multiple deductions should be included in the legislation to restrict the total of all deductions for overpayment and debt payments to a maximum of 5% of entitlement.

I've just got time.

The Acting Chair: Thank you for your presentation. Yes, 20 minutes have gone by quite fast. The fact that this is our last deputation this morning, I will allow one question per caucus, starting with the New Democratic Party.

Mr Kormos: Folks, we've had a lot of discussion about section 7. That's here; let me give you a copy of the bill. That's about the business of liens against property, over on your right-hand side there.

I'm troubled by it because it appears, the way it was very carefully worded — the suggestion is it's liens against real estate, but I understand that if they really —

Interjection: Second homes.

Mr Kormos: And then they say second homes — if you're on welfare, the cottage up on the Rideau or in the Gatineaus. But I'm concerned because if they had meant only real estate, I'm told that it could have read "real property." It says merely "property," which I'm told can be interpreted as meaning chattels as well as real estate, which means that this provision would permit a lien against your 10-year-old Mazda, a lien against your television set, a lien against any other property that you

might own because property there includes both real property and personal property.

You folks are working with this kind of stuff. Should we have that fear about that section as it currently reads?

Ms Hueston: Definitely. I went to law school quite a long time ago, but when we studied property, it certainly included the types of property that you've described. The problem is that the government has made statements about how this language will be interpreted. Why not just state it right there? It says "property." That can be interpreted in many different ways.

It's the same with the repayment agreements. They say they'll do it only to income that would be included in assistance. Then say it in the bill. There's no reason not to if that's your intention.

The government's intention should be stated in the bill. Liens definitely are going to apply to principal residences.

Mr Kormos: And to personal property.

Mr Carroll: Thank you for your presentation. Just to clarify a point, your suggestion about the definition being changed "to prove a substantial impairment of functioning in one of the three stated areas," the minister is on record as saying that this is her intention and the definition will reflect that. She's on record several times as having said that.

Mrs Papatello: There's no amendment tabled yet.

Mr Kormos: Show us the amendment.

Mr Carroll: You say in here that there are persons who will be grandfathered in January 1998. "However, most of them are subject to annual or biannual eligibility review." All people on the disability program will be transferred as of January 1998 and they will not be subject to any reassessment unless they leave the program for a period in excess of 12 months for employment opportunities, in which case to be reinstated they would then be subject to a reassessment. But they will not be subject to any reassessment in any other circumstance other than that.

Ms Hueston: I would really love to agree with you, but unfortunately the bill doesn't say that. There's no protection there at all.

Mr Carroll: That is the intention of the bill and that will be reflected —

Ms Hueston: So I would expect there will be an amendment to that effect?

Mr Carroll: That will be reflected in the final bill.

The Chair: We must move on. Mr Cullen.

Mr Cullen: The previous comments just beg the question of why we have two classes of people being created under this bill.

My question, though, deals with your comments about the rules of natural justice and the rights of recipients dealing with a system that's supposed to be there to meet their needs and the provisions that are being proposed under this bill. You talked about conflict of interest, the restrictions on appeal. In your opinion, does this bill provide for an adequate, fair administration of the program compared to the previous system or the system that we have today?

Ms Hueston: No, I don't think so.

Ms Levesque-Parsons: There appear to be a lot of problems with the decision-making process within this bill. I think in the part about internal reviews there is no safeguard that internal reviews will be done by a different person than originally made the first decision. How long can this last for? Does this mean that this person is cut off assistance until a new decision is made? There are a lot of problems with the current Bill 142 compared to the system as it is now.

The Acting Chair: Thank you very much.
We will now recess until 1:30 of the clock.
The committee recessed from 1145 to 1328.

CANADIAN ADVOCATES FOR PSYCHIATRIZED PEOPLE

(Ms Sue Clark and Ms Jane Scharf returned to answer questions re their presentation in the morning)
Failure of sound system.

Ms Scharf: — if I'm not mistaken.

Mr Carroll: One of our concerns with the vocational rehab system that is currently in place is exactly that, that it spends all of its energies assessing people and does precious little to give people the help they need to find some useful employment. We are changing that under Bill 142. We're going to change that system dramatically so that it is focused on giving people some assistance to go out and find full-time employment. Would you agree with those changes being a positive?

Ms Clark: No, I don't, because for 15 years I had systemic abuse and still I'm trying to get my education, which as a disabled person in Ontario, VRS has the money to do, the mandate to send me to school. I have been denied and I'm not getting the services that I have the right to get. I want my education and I'm going to get it come hell or high water. I'm an activist and I want my education as a disabled person and I shall get my education. I don't want my affordable housing taken away, no way. The Harris government is also going to threaten my affordable housing. I may lose my pension. I may not fit and qualify under the new definition, but I have to go on.

Ms Scharf: Can I ask that the policy questions be directed to me? Sue is more able to provide — I'm the one who studies policy. She's trying to get assistance from VRS. I would have answered that question that the structure is there, the mandate is there, the provision is there but the money is not there so the will is not there.

Mr Cullen: My question to you deals with that portion of the act that deals with the definition of "disability". Clearly we're having a proposal coming from the government here that intends to change the current legislation, intends to change the vocational aspect and comes up with a new definition of disability. My question to you is, do you think under this new definition of disability you would find yourself qualifying for the support that you need?

Ms Scharf: Do you think that Sue would?

Mr Cullen: That the changes would help Sue or people like Sue get the support they need.

Ms Scharf: No, because it says at the beginning of Bill 142 that all assistance under that legislation is temporary and there are no rights under that system. Under the current system a disabled person like Sue has a right to vocational rehabilitation even though she is recognized as permanently unemployable. That has not been accorded to her but it is there nevertheless in legislation and it's protected all the way down from the Constitution. It just hasn't been respected by any of the governments that I've seen — Peterson, Rae or now this government — yet they're saying that the solution is, "Throw out the baby and the bathwater and bring in a big stick and get after these people because it's their fault that they're still unemployed," and it's not.

They have not got the help that they need and that they have a right to. You would have spent a lot less money on Sue Clark if you had given her the help she needed in 1984 when she first requested it.

Mr Kormos: In addition to your —

Ms Scharf: Actually, she wanted us to show you this picture that she did. It's a T-shirt with "No to Bill 142."

Mr Kormos: Is that Brittany?

Ms Scharf: Actually her name is Kayla but she likes the name Brittany.

Mr Kormos: Well, Brittany Kayla, Kayla Brittany. I like both names. Slick.

The Acting Chair: Can we go on, Peter?

Ms Kormos: Under the employment supports part they talk about prescribed employment supports. The employment supports part sounds pretty good. Then under the regulation-making power they say the government can prescribe classes of goods and services not provided by the employment supports program. That's like giving and then taking away. Is that pretty scary stuff when it isn't spelled out?

Ms Clark: I'll let Jane answer. She knows policy better than I do.

Ms Scharf: Bob Crook answered that question at a meeting discussing the works program that we attended last year. He said what it will be is a list of options presented to the client, which sounds good on the surface. They include education, work placement, job search and all that kind of thing. But what was not readily put forth in the description of what's happening is that there won't be a right to any of those services. It will be decided by the welfare administrator on quite arbitrary considerations, not only looking at the consideration of the needs of the individual but also looking at the greater labour market needs and that sort of thing.

The allocation of education, for example: In Sue's case they would, first of all, have to recognize that she has the ability, and we know there are systemic problems with that. But even if she got past that, they could still say no because "We're only funding so many people for education this year."

Not only that, under the present system at least she stays on the pension if they don't help with the work

placement, but under that system you keep on going down the option list until you get to workfare or job search. If you don't fulfil the required plan, then it would be disentanglement. Not total disentanglement; I recognize each disabled person is going to be given some percentage of their pension permanently, but you can't live on 10% or 20% of the current social services. You can't even live on the whole 100%.

The single mother will be left with the allocation for the child but she won't have rent, she won't have anything else. You can't live on that. The child will be taken away. Then they play games: "Oh, they won't actually be cut off." Well, no, a single mother with one child will have about \$350 to live on and the disabled person might have 10%.

I don't even know if they're going to recognize psychiatric disability, because in the SARC report — what was it, 300 or 400 pages? — not one word about psychiatric disability. My guess is that we'll go to the United States model and not even recognize it as a need for ongoing assistance. They don't recognize that down there. It's not on the list. The list can change too. That's another feature of Bill 142. You can be qualified this year to be recognized as disabled and not next year.

The Acting Chair: Thank you for your presentation.

I'll invite the Association of Iroquois and Allied Indians, Grand Chief Doug Maracle.

Mr Klees: While the next speakers are coming up, I wonder if it would be appropriate for me to clarify a matter that was raised. I think there's a great deal of uncertainty about this. It relates to the grandfathering provision.

Mr Kormos: On a point of order, Chair —

Ms Scharf: Unless I get to answer that, because it says that —

The Acting Chair: I'm sorry. Mr Kormos on a point of order.

Mr Kormos: This is not the Canadian Home Shopping Club. If Mr Klees wants to offer opinions or do a selling job, he can do it on his caucus's time at the appropriate time. Please.

Mr Preston: Mr Chair, on a point of clarification —

The Acting Chair: I'm sorry, I must go on. It is now 1:40. We're about 10 minutes late.

1340

ASSOCIATION OF IROQUOIS AND ALLIED INDIANS

The Acting Chair: Grand Chief Doug Maracle, you have 20 minutes. Any time that is left, we will ask questions.

Grand Chief Doug Maracle: Thank you very much, panel, for the opportunity to make the presentation. As an introduction, my name is Doug Maracle and I am here today as grand chief for the Association of Iroquois and Allied Indians to comment on Bill 142, Ontario's pro-

posed Social Assistance Reform Act containing Ontario Works and disability support program legislation.

The Association of Iroquois and Allied Indians represents eight first nations in Ontario with a membership of approximately 15,000 people. As grand chief of AIAI, it is my responsibility to confirm treaty rights and recognize that Ontario has legal and constitutional obligations to first nations. It is in the best interests of Ontario to establish and maintain a cooperative and effective relationship leading to the resolution of many outstanding issues affecting first nations communities and Ontario.

First nations position: I would like to begin this presentation by advising the standing committee that the first nations are seeking exemption from Bill 142, the Ontario Works Act, in whole or in part for all first nations desiring to be exempt. Exemptions are required in this legislation so that first nations wishing to apply Ontario Works with little or no modifications can do so, while those first nations wishing to opt out of the Ontario Works Act can pursue alternative arrangements through first nations legislation.

First nations law-making authority, which includes bylaws under the Indian Act and independent laws under section 35 of the Constitution Act, 1982, must be recognized by the province of Ontario.

The Child and Family Services Act, 1984, and the Long-Term Care Act, 1994, are examples of provincial laws where first nations can opt out of the legislation in whole or in part in favour of alternative arrangements. We recommend that the Social Assistance Reform Act be amended to include similar first-nation-specific opt-out provisions. Opting out would be based on conditions such as provision of a reasonable alternative delivery system covering the same legislative area as the provincial statute.

First nations have from time immemorial provided systems of social support to their citizens as a matter of collective responsibility. Our experience with this sector predates the experiences of settler governments.

Shared fiduciary obligation: Based on the constitutional division of powers, both orders of government share a fiduciary responsibility in matters related to the provision of social assistance to Indians. The Ontario Court of Appeal confirmed the province's fiduciary obligation towards first nations in its recent Perry decision.

Federal-provincial responsibilities: Applying the Ontario Works Act to first nations would be in breach of the 1965 welfare agreement, a federal-provincial cost-sharing arrangement for Indian social services which includes general welfare for cost-sharing, but not the FBA component. Bill 142 will consolidate GWA and FBA.

The bulk of the GWA costs on reserve are covered by the federal government under the terms of the 1965 agreement. This is a significant amount of money. Therefore, before attempting to apply Ontario Works to first nations communities, it would make sense for the province to secure federal cost-sharing. Under clause 2.2 of the

agreement, first nations are to be consulted and give consent prior to a new program being extended.

When the province imposed a 21.6% welfare rate cut to first nations in 1995, it amounted to a fruitless exercise since under the cost-share formula of the 1965 agreement most of the savings generated from first nations GWA recipients went to the federal government and not to the provincial government. It was also pointless since first nations welfare dependency is roughly 65% to 70% province-wide, compared with only 10% for Ontario residents as a whole.

Based on the findings from a 1979 tripartite review of Indian social services which produced the report *A Starving Man Doesn't Argue* and a subsequent report in 1980, Canada and Ontario launched into tripartite discussions with first nations related to jurisdiction in the area of social services, but the process was redirected in the late 1980s. We would like to see the immediate establishment of similar tripartite negotiations to deal with first nations legislative, policy and delivery issues regarding the Ontario Works Act.

GWA freeze: A number of regulation changes to GWA have already been made without consulting first nations and despite clause 2.2 of the 1965 agreement. These changes have laid the foundation for Ontario Works. This is a very serious concern to our welfare administrators. In our executive review of official ministry correspondence and comments concerning the application of GWA, it is our understanding that, based on subsection 11(1) of the Ontario Works Act, schedule D, the GWA act and regulations will continue to apply in first nations communities "until the prescribed date," which we understand to be March 31, 2001. Therefore, our interpretation is that Ontario Works has no application to first nations at least until the sunset date.

Delivery and policy issues: I will briefly highlight some key program issues of particular concern to first nations who may be looking to opt in to Ontario Works on an interim basis. The requirement to amalgamate for the purpose of delivering Ontario Works is not viable in our communities, which are autonomous entities. Even if tribal councils were utilized for delivery, factors such as remoteness, lack of transportation and the number of caseloads required to implement an Ontario Works project would make this program inoperable.

Performance-based funding and program delivery methods in Ontario Works do not take into account the many differences between municipalities and first nations, which lack the infrastructure and community resources to administer, monitor and supervise participants.

Current arrangements, including a negotiated caseload ratio for first nations welfare administrators and automated delivery, would be significantly impacted by Ontario Works, and the province has not been up front with us regarding its intentions in these areas.

First nations had developed our own approach to addressing welfare dependency based on extensive consultations in 1994. The community-based model we adopted in 1995 would support individuals in moving

towards self-sufficiency through client supports similar in nature to those in Ontario Works, but offering incentives to the client. Our model, called the Innovations Framework, also addresses community economic development by providing small business development supports. Our leadership brought Innovations forward to the Ministry of Community and Social Services in 1995 as the approach mandated by first nations. However, the ministry subsequently ignored this approach in favour of Ontario Works.

One positive note may be that the cabinet is expected shortly to approve the aboriginal economic development strategic policy put forward by the Ontario Native Affairs Secretariat, ONAS, which reflects special measures to address aboriginal economic development.

Transition funding: Although recent correspondence to first nations indicates that transition funding is 100% provincial, the revised ministry guidelines for first nations state that the funding is provincially cost-shared. It is unclear whether Ontario has reached an agreement with Canada in relation to cost-sharing this funding, although it would certainly be in the province's best interest to do so. First nations must be at the table should such negotiations proceed.

The Ontario Works regulations which will define the provision, delivery, administration and funding of assistance on reserve have yet to be written and shared with us. The government expects to develop and apply the new Ontario Works regulations without providing an opportunity for us to review and suggest modifications. First nations cannot be expected to comply without being involved in the development of regulations that would impact on us directly.

Ontario Works will not work in first nations communities due to their remoteness and diversity, as well as changing labour market needs, unless special measures are included to address the lack of jobs. Participation and enhanced job search activity could be futile where the lack of jobs in an area is not addressed. First nations require community economic development and job creation to make an impact on the problem of long-term welfare dependency. We are seeking a process to discuss options for making this happen, in particular related to working jointly on implementation of first nations Innovations.

Royal Commission on Aboriginal Peoples: The final report of the Royal Commission on Aboriginal Peoples, 1996, states that first nations' inherent right of self-government is recognized and affirmed in subsection 35(1) of the Constitution Act, 1982; therefore, non-aboriginal governments, federal and provincial, must support policy change and ensure adequate resources are provided for a new social structure within first nations communities. The final report also identified three principles for reforming aboriginal social assistance, including social assistance aimed at development, holistic integrated programming and aboriginal control.

Many first nations are already engaged in a form of workfare through such initiatives as social assistance transfer funds under the Department of Indian Affairs and

are not necessarily opposed to the concept of workfare. However, when workfare is prescribed under the stringent terms and conditions imposed by Bill 142, the Ontario Works Act, we find it intrusive and unworkable for first nations communities. Also, we attempted to persuade the ministry to allow flexible use of Ontario Works funding to complement the first nations social assistance transfer fund projects. However, to date, the ministry has not responded to this request and is now pressuring first nations to get on board with Ontario Works despite the lack of certainty on all of these issues.

While some first nations are proceeding with the development of business plans under Ontario Works, and we support their efforts to work within the envelope of Ontario Works, other first nations should be able to opt for exemption and pursuit of direct federal bilateral approaches. All first nations are concerned with the sweeping powers of Bill 142, which would allow the province to ignore first nations jurisdiction in the area of social assistance. First nations welfare administrators are concerned that Ontario Works would reduce the small numbers of paying jobs in first nations communities, lead to overcrowding and increased poverty and fail to address job creation.

In summary:

A moratorium is required on the application of Ontario Works to first nations, except where business plans have been negotiated to the satisfaction of the first nation or first nations.

Exemption clauses must be included in the Ontario Works legislation to accommodate first nations opt-out provisions.

Tripartite discussions with Canada and Ontario must begin immediately to resolve the full range of first nations issues regarding Ontario Works.

There must be no change to the 1965 welfare agreement without first nations consent and a federal guarantee of cost-sharing. First nations cost of welfare administration must be maintained.

The ministry must continue to fund the training unit of the Ontario Native Welfare Administrators Association as previously negotiated, without any threat of elimination through an open bidding process.

1350

The Acting Chair: Thank you, Chief. We'll now go to the opposition for two minutes each.

Mrs Pupatello: Thanks for your presentation. In this discussion are you specifically talking about opting out for those who live on reserve?

Grand Chief Maracle: Not in particular. Those first nations that wish to opt out.

Mrs Pupatello: If they happen to live in Toronto as well, you are considering that that would apply?

Grand Chief Maracle: It may very well apply, because there is provincial government recognition of specific service groups in Toronto that provide the service to their clients.

Mrs Pupatello: On page 7 you said, "The ministry has not responded to this request and is now pressuring first

nations to get on board with Ontario Works." What we have found across Ontario is this pressuring tactic. When municipalities were initially very reluctant to participate in Ontario Works, recognized that workfare doesn't work, the next statement from the various government people was that if the municipality did not participate, these various transitional funding grant moneys that were going to be made available during all this downloading would mysteriously not be made available to communities that didn't participate in Ontario Works. It was actually quite threatening. "If you don't get involved in workfare, you're not going to get any money to help you with this dumping of provincial social programs on to the municipal taxpayers through property tax."

How are you feeling this pressure to get on board despite the lack of certainty on these issues, as you indicated here?

Grand Chief Maracle: The pressure comes from certainly not having any answers provided to questions that have been raised. Pressure is being levied from the aspect of no consent from first nations when the Constitution and the Indian Act clearly stipulate that that must happen, when we have not only constitutional issues and the Indian Act itself as federal legislation that clearly indicates that it cannot be superseded by any other government or department of a government.

Mr Lessard: Thank you very much for your presentation. I wish you all the best in trying to convince this government to respect your constitutional rights.

In your presentation you expressed concern that there would be a reduction in the number of paying jobs in first nations communities, overcrowding, increased poverty and a failure to address job creation, and that's what you see coming from the passage of Bill 142. I wonder if you could expand a little bit on those concerns, how you actually see that playing out in your communities.

Grand Chief Maracle: Just from the previous speaker, that aspect of removing something like SATF — certainly it's a job creation opportunity. It works in first nations. With other initiatives it hasn't been clarified whether anything is going to happen yet, with the reference in here to the Ontario Native Affairs Secretariat and the creation of some small economic development opportunities. I believe that lack of clarity is also there. On the aspect of individuals who could create business opportunities or could create job placement opportunities within our own communities, I think they disappear with the removal of other transition funding.

The Acting Chair: Members of the government? Mr Preston.

Mr Carroll: You're forgetting me because I'm sitting up here at your left hand.

The Acting Chair: I'm not used to having a Tory on my left.

Mr Preston: He's not used to being on the left either.

Mr Carroll: Thanks very much for your presentation, Chief. Just quickly, you talk about the fact that some first nations are proceeding with business plans for Ontario Works, and you mention in here that, in your opinion,

Ontario Works will not work in first nations due to their remoteness and diversity, as well as changing labour market needs, unless special measures are included to address the idea of lack of jobs.

If we could somehow do some of those things — because obviously with a 65% to 70% dependency rate, it is a serious problem — if we could somehow deal with the lack-of-jobs issue, is the concept of Ontario Works, where we try to encourage people through job exposure, training or whatever to get back into the labour force, one that you think first nations can live with if we can figure out some way to address the shortage-of-jobs issue?

Grand Chief Maracle: I think the shortage-of-jobs issue is the key. The establishment of jobs within first nations communities by a provincial government is virtually non-existent, so to force something on a community that doesn't address the problem at the end of the day is of no use, and it will not work. If you can come up with some way that says, "Yes, if we do this, we're also willing to create X number of jobs within the first nations communities," then it's a different picture, but with the lack of that, I'm sorry, you're headed in the wrong direction.

The Acting Chair: Thank you for your presentation, Chief.

Now I will call upon the consumer advisory council of the Royal Ottawa Hospital, Marie Loyer.

Mr Kormos: Mr Chair, if I may while we are waiting, on a point of order: Young Brittany Kayla Welch has asked me to file this document of hers which says "No to Bill 142" as part of the official record.

The Acting Chair: This not a point of order, but —

Mr Kormos: Young Brittany Kayla Welch having appeared on the panel in front of this committee, I have filed this document on her behalf.

The Acting Chair: Mr Kormos, as you know, this is not a point of order, but we will file the proper document.

ROYAL OTTAWA HOSPITAL CONSUMER ADVISORY COUNCIL

The Acting Chair: Marie Loyer, you have 20 minutes to make your presentation.

Dr Marie Loyer: Thank you, ladies and gentlemen, for giving the consumer advisory council of the Royal Ottawa an opportunity to speak.

The role of the consumer advisory council is to provide the hospital with thoughtful and considered advice from consumers. This advice is based on the experience and knowledge that members bring as program representatives concerned with those issues faced by persons who require the services of one of the six programs presently offered at the Royal Ottawa Hospital.

On behalf of the council, I am pleased to speak to the Ontario Disability Support Program Act. This submission focuses specifically on the impact of this legislation in its current form on people with mental disabilities. Others, I'm sure, will be addressing other issues in the legislation.

It is regrettable that the committee chose not to hear at this time from the consumer advisory council of the Rehabilitation Centre, the other major component of the Royal Ottawa Health Care Group. Although my presentation is made on behalf of the consumer advisory council of the Royal Ottawa Hospital, the written submission that has been made available to you is from both advisory councils. All of my comments are related to schedule B, part I, part II, part III and part IV of this act.

I will express some of our concerns, first of all, and, second, propose principles for revising Bill 142, and I call your attention to the more specific and lengthy clause-by-clause review and recommendations which have been attached to the brief which has been submitted to your committee.

The first concern I wish to bring to your attention is regarding the definition of disability. The act relies on a level-of-care type of definition of disability for income support, that is, substantial restrictions in activities of daily living, instead of a definition based on employability in a competitive marketplace. Some people who require assistance in personal care can work, whereas other people who are independent in personal care cannot work. For example, the person suffering from obsessive-compulsive behaviour performs her or his ADL very, very well, but some of those persons cannot work competitively.

1400

What parameters will be used to define "substantial"?

The meaning of "direct and cumulative effect of impairment" is open to interpretation. Does it mean that all three components must be present — inability to attend to one's own care, being dysfunctional in the community and dysfunctional in the workplace — to evaluate substantial restriction?

The definition of disability for income support does not specifically include psychiatric, developmental or learning impairment, all of which can also be associated with physical disabilities. Are those factors part of the interpretation of mental disability?

The definition of disability is not structured to recognize the potential impact of serious chronic conditions and diseases which constitute complex health barriers to employment — for example, lupus, AIDS, and kidney disease — nor does it appear to recognize the possible disabling effects of some treatments.

I'd like to focus now on the concern of eligibility. How a disability is acquired can remove a person's eligibility for income support. The act specifically excludes disabilities related to the ingestion of alcohol, a drug or other chemically active substance. A person does not have to be addicted to these substances or abuse them to be disqualified from income support. The substance ingested can be a legal substance and still disqualify a person from income support.

The act is discriminatory in that it does not recognize substance abuse as either a physical dependency or a mental illness. It implies a lifestyle choice — for example, the child who ingests medications from the medicine

cabinet and subsequently becomes impaired, the child suffering from fetal alcohol syndrome, the person who knowingly takes prescribed medications and has an acute toxic reaction which leads to impairment.

Another concern is regarding liens on property. The acts turn income support into a loan for any person with assets: a home or something of that nature. A person must accept a lien on their assets to be eligible for income support. The eligibility criteria for income support do not factor in the impact of a person's other employment barriers; for example, education, training, transferable skills. There is no consideration for a person's overall suitability for employment or the availability of appropriate employment options in the marketplace.

Another concern is that employment supports are only available to people who are able to prepare for, accept and maintain competitive employment as described in clause 33(b). There's an enormous gap between being eligible for income support and being eligible for employment support, and there's nothing in the act to bridge that gap. It's also not clear whether this section will be interpreted to include both full-time and part-time employment. The act does not specify the nature and scope of employment supports to be provided or the extent to which the individual will have to bear the cost of these supports.

Our council believes the consequence of ineligibility is mandatory workfare, which links temporary income support to mandatory participation in employment activities. More people not disabled enough will be forced into community participation, a further stigma for the mentally impaired. There is a possible risk of increase in criminal behaviour from persons not deemed eligible.

We are concerned with the lack of extended health benefits. The act appears to be silent on the nature and scope of extended health benefits that are to be provided. The lack of extended health benefits can increase the impact of a disability and constitute an employment barrier in itself.

There are a number of issues we want to call to your attention on the appeals process.

The qualification process requiring relatives, friends and others to disclose financial resources of the applicant is invasive. For example, there are suggestions of potential searches and fingerprints.

The appeal process is severely limited. People with disabilities can lose the right to control their own finances without appeal, on the suggestion that they are incapable of handling their personal affairs. Will the assistance administrators override the application of the Substitute Decisions Act? How will the informal trustee be made accountable? There is something missing in the act; for example, a mechanism for trustees to be made accountable.

The appeal process is not independent. It is subject to the ministry that makes the decisions that are under appeal and only provides for recourse to the courts on matters of law. Every case will be processed through internal review before any appeal can proceed. And then who will make the call on the definition of what is a "frivolous or

vexatious" appeal? These are very difficult adjectives to define.

There are sweeping regulatory powers in the act, and the regulations of course have not been released. There has been no public openness or disclosure in the drafting of the regulations. The regulations may make the new legislation even more restrictive.

For persons 60 years and over and the homeless, many of those will fall under the Ontario Works Act.

I've mentioned some of our concerns. Now I'd like to propose principles for revising Bill 142.

For example, a new definition of disability for income support could be as follows:

"A person is a person with disabilities for the purpose of income support if,

"(a) the person has a physical, psychiatric, developmental or learning impairment that is continuous or recurring;

"(b) the effect of the impairment and/or any related treatments result in a substantial restriction to the person's ability to maintain employment enough to be self-supporting; and

"(c) the impairment, its related restrictions and a person's limitations on employability have been verified by qualified medical and vocational assessment."

On eligibility, we suggest that how a disability is acquired should not affect a person's eligibility for income support. The act should only factor in other sources of income currently available to the applicant: not assets, not future potential income. There should be a reporting process to cover changed circumstances.

The definitions of disability in the act have to bridge the enormous gap between being eligible for income support and being eligible for employment support.

The act should specifically support both full-time and part-time employment, encouraging people on income support to establish some attachment to the labour force where possible by providing partial income support instead of an all-or-nothing approach. The act has to recognize that workfare may not be flexible enough to accommodate people with some impairment who do not qualify for income support but may not be able to maintain employment without substantial supports.

Individuals on income support, whether welfare or disability, cannot be expected to bear the cost burden of many types of employment support.

1410

Regarding extended health benefits, the act must define the nature and scope of the extended health benefits that are to be provided to people on all forms of income support. The act must, at a minimum, continue the current provision of extended health benefits to people who are not on social assistance but who are subject to extraordinary drug costs associated with an illness. Ideally, the act would expand this coverage to specifically include all extraordinary health costs related to illness and chronic conditions in order to encourage people to remain in the labour force and not seek social assistance to cover these costs.

On the appeals process, there is really no need for an invasive, demeaning qualification process. The appeal process, at a minimum, should apply to all matters affecting income support and employment support. The appeal process must include a quasi-judicial mechanism which operates at arm's length from the ministry.

Either the act specifies more information about requirements or the regulations must be a part of the discussion before the act is passed. That is the only way the full impact of the legislation can be assessed.

Other areas which are not addressed in the legislation are as follows: specific eligibility for part-time and full-time employment; a mechanism for employment benefits for those who cannot qualify for regular employment benefit packages; appropriately expanded community support services for the mentally disabled; expanded health benefits to people who are not on income support to encourage them to remain attached to the labour force. The application and appeal processes must be made sensitive to people with special needs.

Please release the regulations or give more detail before the bill is passed and make sure that extended health benefits are included to remove barriers to employment.

I remind you that we have provided you with clause-by-clause issues, concerns and possible recommendations.

The Acting Chair: Thank you for your presentation, Ms Loyer. Now we will go for questions for five minutes, starting with the New Democratic Party: two minutes.

Mr Kormos: Very quickly, you made reference to the "invasive" process. We're getting now this fingerprint scanning, which as I understand it is highly imperfect technology in any event. What in your mind is going to be gained by requiring, effectively, fingerprinting of persons who apply for welfare? How is that going to resolve any issues for the system?

Dr Loyer: First of all, I don't think it should be applied. You can imagine persons suffering already from mental illnesses, who are already shunned in the population and who have received the least attention because it's been the diseases that are in the closet, and who are now going to have to be fingerprinted or use other scanning devices to make sure they are the person they say they are and present themselves for review and assessment. I frankly think that if scanning is going to be used, it should be used for every single Canadian in Ontario, if not in all of Canada.

Mr Kormos: Much mention has been made at a number of locations where we've been already about the need for birth certificates, all this identifying documentation, and the cost that's attached to obtaining these. A birth certificate, I'm told, is \$16 now. Should there be an assurance that the cost of obtaining that sort of identifying information for people who are broke — that's why they're applying for assistance. Should there be amendments in this bill to ensure that the cost of obtaining those documents is borne by the state rather than by the applicant, who has no money anyway?

Dr Loyer: If there are to be costs incurred with regard to birth certificates and such, I think you will find that with people with mental illnesses who have problems of forgetting, problems of perhaps not even living at home — we know that a number of people who are homeless suffer from mental illnesses. For example, in Options Bytown, 65% of the population of persons living there suffer from a mental illness, but they are in the process of recovery and being reintroduced into the community. I think it is penalizing to have to attribute those costs to people who are already disadvantaged.

Mr Carroll: Twice you made reference to how the definitions of disability in the act have to bridge the enormous gap between being eligible for income support and being eligible for employment support.

If I may, I'd like to read to you from the act on employment supports.

Dr Loyer: You're quoting section 33?

Mr Carroll: Subsection 32(2):

"Employment supports may be provided to a person if the person is eligible for income support under part I or if,

"(a) the person has a physical, psychiatric, developmental or learning impairment that is continuous or recurrent and expected to last one year or more and that presents a substantial barrier to competitive employment."

I don't understand what about that does not deal with your concern.

Dr Loyer: We suggest that if you were to accept our proposed amendment to the definition for income support, you would have a direct link between income support and employment support and would not have to redefine it in the act.

Mr Carroll: There may be some people, though, who don't qualify for income support but who may need some employment support. Is that not possible?

Dr Loyer: There may be people who require income support, definitely, and others who require income support and employment support. But for employment support, if we continue under section 33, the person has to be prepared for, accept or maintain competitive employment. If you focus particularly on people with learning impairment, with psychiatric problems, there is a big gap to be bridged here in terms of their capability of being considered for employment support. They can say that they are prepared to work, but their capability and their choice of work may be such that it is not compatible with their particular needs.

Mr Cullen: I'd like to thank you for your well-researched, well-thought-out presentation. We too have concerns about the definition of disability. A number of issues have been raised, particularly the word "competitive." We hope to present some amendments. If we can't get the definition of disability changed, what alternatives would you recommend?

Dr Loyer: Obviously you know that I would prefer that the definition of disability were amended, but if that is not possible, I think it would be imperative that there are changes made to the appeals process to make it an independent process that is at arm's length from the

ministry that is applying the appeals process and that it is an independent process. Otherwise, frankly, we believe that it is incestuous, and we certainly disapprove of that.

Second, we believe also that the process of assessment for disability must be made by qualified individuals, qualified practitioners in vocational assessment, not just by somebody who is not defined, because it says, "to be defined in regulation." So who is that?

The Acting Chair: Thank you, Marie Loyer. It was a good presentation. Merci bien.

Dr Loyer: Thank you very much for the opportunity.

CANADIAN HEARING SOCIETY

The Acting Chair: Now I'd like to call upon the Canadian Hearing Society, Lucy Ross. You have 20 minutes for your presentation, and you may begin.

Ms Lucy Ross (Interpretation): For over 57 years, the Canadian Hearing Society has provided direct services for the deaf, deafened and hard-of-hearing community, as well as promoting rights and interests and advocating for those for the deaf. Across the province of Ontario there are a total of 21 offices. This brief has been done to assist the Ontario government and the Ontario Legislature in their deliberations on Bill 142, as well as the proposed Social Assistance Reform Act of 1997. As well, this brief will address the decision that was rendered by the Supreme Court of Canada which affects medical situations, providing sign language interpreters for those situations. This will also impact those who have disabilities.

The Canadian Hearing Society is very pleased to support this proposal. This proposal, of course, was announced by the Honourable Janet Ecker, Minister of Community and Social Services. Attention has been given to the needs of the deaf, deafened and hard-of-hearing community, and that is well taken by us, but still there are some concerns that we have. We feel there should be more study as well as clarification and/or incorporation into the act of the government.

Following are the highlights of the proposals which the Canadian Hearing Society supports.

First of all, we support the fact that there are no financial penalties if efforts at employment do not succeed.

Presently, the expenditures in employment supports are \$18 million, but they will be doubled to \$35 million. This of course we support.

We are pleased to support the elimination of unnecessary medical assessment testing and other types of assessments that will no longer be done.

As well, the 25% co-payment for the cost of assistive devices will also be eliminated. This of course we also support.

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However, there are some concerns that the Canadian Hearing Society has with regard to the new legislation.

(1) We feel the new definition of "disability" could provide potential restrictions for eligibility for the Ontario disability support program.

(2) There is no mention of provision of costs for accommodation services, meaning a sign language interpreter or a note-taker for the interviews or hearings or appeals that will be taken to determine eligibility for services.

(3) We feel there is a lack of clarity on the verifications of eligibility of those who will be determining functional loss. This is actually an impact on a client's communication, social and vocational situations dealing with deaf, deafened and hard-of-hearing issues. So of course this is not only from a medical perspective but from other perspectives as well, and that needs to be assessed.

(4) Legislation currently has been committed to provide funding for post-secondary students with disabilities, but this of course will be repealed under the new legislation.

(5) There has been an inherent misperception that mainstream service providers accessed through competitively selected local service coordinators can meet the needs of deaf, deafened and hard-of-hearing people for employment services. Is that the case?

(6) There is uncertainty as to whether or not VRS supports will continue and, if so, how they will continue.

(7) There is apparent insufficient funding being allocated to the Ontario disability support program.

(8) There is a need for complementary legislation such as the Ontarians with Disabilities Act to ensure that the ODSP will be successfully providing comparable access services for post-secondary students out of province.

Our question is, when will your ministry release detailed eligibility criteria for the public to review?

How will deaf, deafened and hard-of-hearing students apply for the top-up? If a situation arises where the student does not qualify for the Canada student loan because of parental income, will they be ineligible for the top-up funds as well? For instance, the Canada student loan has a maximum funding of \$8,000, but at many post-secondary institutions for the deaf — for instance, Gallaudet or the Rochester Institute for the Deaf — the tuition costs are roughly \$23,000 per year. So the funding is a very big concern for us. As well, what are the standards to ensure equal access for deaf post-secondary students along with their hearing counterparts?

What is the plan for transition? How will the transfer be made to implement the ODSP for those who are VRS consumers so that they get their needs satisfied within an effective time frame?

Will the Ministry of Education and Training fund literacy training programs and individual tutors at private clinics for the deaf, deafened or hard-of-hearing students so that they will still be able to access supports through the service coordinators? Will deaf, deafened and hard-of-hearing students with these high-level needs be accommodated through the Ministry of Education and Training or will they be able to access the supports for deaf, deafened and hard-of-hearing students through the service coordinators?

Is your government committed? Will they ensure that local service coordinators reduce the backlog problems by providing the appropriate supports and training dollars?

There needs to be recognition that quality employment services include aspects of counselling such as career guidance, market research analysis etc. These are essential to ensure consumer satisfaction and of course government savings over the long term.

There has been a serious lack of information, communication services with regard to career counselling and information and options that students have. Of course, deaf, deafened and hard-of-hearing students also need this counselling to know what their options are, and service providers need to be aware of what the needs are of the deaf, deafened and hard-of-hearing students so they can provide for their needs.

Bill 142 needs to clearly state that sign language interpreting, computerized note-taking, and specialized communication devices will be provided as part of the provision for income support or employment services.

Responsibilities for payment of accommodation services must be clearly delineated among government, private sector service providers and/or their employers. Establishment of an accommodation fund would allow partners to contribute their fair share and have funding readily available so that a consumer is never denied service because of communication inaccessibility.

In determining eligibility for ODSP income supports and supports to employment, the client's request should be accepted where the disability of the client can be easily substantiated. For example, if there are audiological reports and grade reports from the provincial schools for the deaf where those students attended, they should be enough to determine the disability; it should be audiological reports as well as the grade reports from the schools of the deaf.

The Canadian Hearing Society's recommendations are as follows.

We recommend that eligibility criteria for local service coordinators include an expectation that specialized services be provided through a contract or a purchase-of-service agreement with an agency such as the CHS, and this contract would ensure that satisfaction would be provided to both parties. This would ensure that services are offered in an accessible environment by staff who have proven to be sensitive to the needs of the deaf and understand those needs. As well, the consumers who are the deaf, deafened and hard-of-hearing will feel confident that these parties understand those needs and will be able to meet them.

The Canadian Hearing Society recommends that the Minister of Community and Social Services work along with the Ministry of Citizenship to have the Ontarians with Disabilities Act passed. This of course will strengthen the Ontario disability support program supports to employment and improve outcomes of local service coordinators. When the Ontarians with Disabilities Act is implemented, that will support funding for post-secondary students and provide those disability-related supports such as tutoring and literacy training programs.

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In conclusion, the Canadian Hearing Society is pleased to support the intent of Bill 142, the Social Assistance Reform Act, and also the proposed Ontarians with Disabilities Act, which will come at a later time. Deaf, deafened and hard-of-hearing consumers value the specialized services which are provided by the Canadian Hearing Society. They feel that the Canadian Hearing Society is the best agency equipped to act as their service coordinator because of the agency's expertise in meeting their communication needs.

As well, they have specially trained counsellors and other staff who communicate directly with those consumers. They have experience in conducting job searches because they themselves are at times deaf and hard-of-hearing so they can relate to those who are their consumers.

Furthermore, new barriers such as technology, physical work environment and contract work are making it even more difficult for deaf, deafened and hard-of-hearing persons to be trained, hired and promoted on the basis of individual merit.

The Canadian Hearing Society is in support of Bill 142 and the proposed Social Assistance Reform Act, 1997, with some reservations. The Canadian Hearing Society would like the issues outlined in this paper to be addressed before the Ontario government passes Bill 142. As it stands now, Bill 142 is not sufficient. It is essential that the government draft and pass the ODA bill to ensure comprehensive employment services and opportunities are available.

As well, it's important to note that on the day of October 9, 1997, the Supreme Court of Canada passed a ruling which unanimously decided that the failure to provide sign language interpretation where it's needed for effective communication in the delivery of health care services violates the rights of deaf persons.

The ruling further stated that governments cannot escape their constitutional obligations by passing on the responsibility of policy implementation to private entities that are not directly under the Charter of Rights jurisdiction.

Thus, this decision reaches far beyond the deaf community and actually will touch all Canadians who have a disability. The court has made the equality guarantees in the Charter of Rights real. Businesses, hospitals and community facilities are all affected by this landmark decision. This decision requires the removal of barriers that prohibit full participation of persons with disabilities. They have equal access with their counterparts who are not disabled.

The provincial government will need to ensure Bill 142 and the subsequent Ontarians with Disabilities Act are consistent with the Supreme Court's decision.

The Acting Chair: Thank you for your presentation. We have about five minutes, so a minute and 30 seconds per caucus, starting with the Conservative Party.

Mr Klees: Thank you very much for your presentation. You've made some very good observations. Obviously the

purpose of this forum is to hear from people like yourself so that we can take into consideration the various aspects that you bring to our attention as we develop the regulations that will ultimately drive the program.

I think you refer in one of your concerns to an apparent insufficient funding being allocated to ODSP. I would like to draw your attention to the June 5 announcement made by the minister in which she specifically, with regard to supportive devices, announces an increase of funding from \$18 million to \$35 million. Also, in the context of that same announcement, she indicates that there will be direct funding to universities and educational facilities to ensure that the necessary supports are in fact implemented.

Could you comment? Are there other concerns specifically that you would like us to look at in terms of what you perceive as an underfunding or where we need to focus?

Ms Ross: The concern is the lack of funding for support services in their entirety, for instance, sign language interpreters or computerized note takers. The concern is whether or not the Ontario disability support program or the Ministry of Education and Training will provide that funding. Because deaf persons' first language is the American sign language, their second language would be English, so we need these support services in place to provide the needed communication for these students.

The Acting Chair: Sorry, Mr Klees, I must go on.

Mrs Papatello: Thank you for coming today. May I ask you a personal question? Do you think that you are substantially disabled?

Ms Ross: The point is the fact that there is a barrier to communication. How can I substantiate that? I can substantiate it through audiological reports, as well as the way I live my daily life.

Mrs Papatello: I guess my leading question is that I am trying to find a way in the way the definition is currently listed in Bill 142. I don't think you would fit the bill as being substantially disabled. You wouldn't fit the bill as: "the direct and cumulative effect of the impairment on the person's ability to attend to his or her personal care." You wouldn't fit the bill on this even if that wording from "and/or" were changed. That means you can't get over the bar to access the manna from heaven of employment supports that is included in the very bill that you support in some way today.

Ms Ross: That is one of our concerns with regard to the definition of a disabled person. Many people's perception of a deaf, deafened or hard-of-hearing person is that we are not severely disabled. They feel a person who is in a wheelchair or who is blind is what we would call severely disabled. We may appear to be not disabled, but we do have barriers we are confronted with. Because of this, we don't have the same level of education available to us as others do.

Obviously, if I did not have an interpreter with me today I would have a barrier. I would not be able to speak to you today here in this room. What is that barrier

actually? Whose barrier is that? Is that my barrier or is that your barrier?

Mr Lessard: Thank you very much. I wonder if you could tell us a little bit about how you perceive the impact of the repeal of the Employment Equity Act on persons with disabilities and whether you think that Bill 142 will be effective without the passage of an Ontarians with Disabilities Act. As you've indicated, there has been some assurance that this may happen in the fall of 1998, but you know that's a long time off and many things could happen before then.

Ms Ross: Of course I hope it will be passed. With the repeal of the Employment Equity Act there have been many barriers for the deaf, deafened and hard-of-hearing. Many employers don't know how to deal with those who are deaf, but the Ontarians With Disabilities Act will of course assist those situations to break down those barriers to allow employers to have more awareness, more knowledge of the deaf, deafened and hard-of-hearing.

In times past and present there are many barriers that deaf persons have when they're trying to seek employment because of situations where employers feel that they can't hire someone because they're deaf. They feel there's a barrier of communication there. There are many misunderstandings. But with the passing of the ODA there will be more protection for those who are deaf.

The Acting Chair: Thank you for your presentation. Time is up.

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FAITH PARTNERS

The Acting Chair: I would like to call upon Faith Partners, Reverend Bill Jay, Reverend Garth Bulmer, Rabbi Steven Garten and Mary Kehoe. You may begin.

Rev Garth Bulmer: Thank you, ladies and gentlemen of the committee. My name is Garth Bulmer. I'm the chair of the Faith Partners group, which I see was listed as "Safe Partners." While as people from different faith communities we work closely together, I can assure you we're not that intimate. The presenters are listed on the brief which we have provided for you so I'll be very brief in my introduction.

Faith Partners is an informal interfaith group here in Ottawa-Carleton. It has a membership of about 40 people from different faith communities and many different parts of the Ottawa-Carleton region. As you may be aware, in Ottawa-Carleton there are a lot of social service projects which were initiated by or founded and supported by faith communities, particularly day centres. As I look around the room here today, many of those people are present as we make this brief.

Our focus as an interfaith group has been primarily upon values, which we encourage within communities, the values which encourage people to care for one another. We very much come from local communities, many different local communities in the area, as I have said. In that sense, not only because of the front-line projects which many of our faith communities operate but also

because as leaders of religious communities we're in touch with quite a broad cross-section of people, I think we have some capacity to measure the impact of welfare reform on the general population. That's what we hope to reflect in these comments.

Without a further word from me, I'd like to pass the microphone to my colleagues.

Rabbi Steven Garten: I appreciate the opportunity to speak before you this afternoon. I have been asked to communicate to you the basis upon which we come to you. Each of the groups that has testified this afternoon and this morning has an obvious perspective. Our perspective is one of individuals of faith who have banded together with certain conceptions which we want to share with you, for it is upon those conceptions that we have grave concerns about the bill. I ask your indulgence if this sounds too sermoniac, but if you've already made the decision to let ministers share with you, those sermoniacs and homiletics may not be uncomfortable for members of the Parliament, or certainly unknown.

It is our contention that the sacred scripture which we represent speaks in the first book of Genesis that prior to creation the world was unformed and filled with chaos and that the process of creation was intended to turn chaos into a world which was opposite from that which existed prior to creation, one which had structure instead of chaos, one which had meaning instead of void and light instead of darkness. The text, which we all accept, goes on to say that this new creative process was going to be distinguished from the old by one eternal value: the value of good.

We come before you concerned that the bill as it now reads does not reflect that value. It neither reflects the value of good nor reflects the value of light over darkness, nor does it reflect the notion of creating values themselves out of chaos.

In particular we are concerned that aspects of the bill do not reflect the notion of personal worth, of the value of the individual. We are concerned that aspects of the bill do not promote a community based on compassion and trust but rather the exact opposite.

Though we are very pleased that the committee has chosen to participate in a process of deliberation and communication such as this, we are concerned that the bill does not allow for the ongoing participation of community. Were the bill not to be altered to reflect those kinds of values, the kind of community which we hope Ontario will be and which we have worked diligently to create in Ottawa-Carleton with those members of our communities from all the faith communities who are impacted, whether it be by the disability sections or by the sections of Ontario Works or the sections related to welfare or employment, our community will be lessened.

We feel that, although it may not be as clear-cut as some of the other presentations, that will have a significant impact on what the Parliament and this community wants to create, not just for the moment but for the foreseeable and perhaps unforeseeable future.

I have been asked to be brief in that statement and I hope that conforms to the charge. It's always difficult when asking clergy to be brief. It's now my pleasure to ask my colleagues to speak more specifically about the concerns that we have on the bill.

Rev Bill Jay: Bill Jay, United Church of Canada. I'm honoured as well to have the opportunity, along with our many partners who are in the room today, to bring before the committee some of our concerns. I guess you could call this a moving towards the altar call, for those of you out of that tradition.

I think the kinds of things we're highlighting in the brief — I'll only touch on two or three of them in the economy of time — are ones that have been represented through the day. As I look at the list of presenters, I'm sure some of these have come before you before during the course of this set of hearings. The ones I have lifted up from within the brief we present are ones that evolve out of that passion for a just and equitable society of which my colleagues have spoken.

Uppermost is the concern around stigmatizing. We live in times where we've gone through economic hardship. It has touched every aspect of society, and people in the squeeze, the middle class, have been feeling it as much as anybody. It gives rise in that kind of a time to what is popularly called poor-bashing or stigmatizing. When you're unsure of where your next cheque is coming from, if not indeed that you might lose your job, your house and all that you've taken for granted in your life, you look for some scapegoat. It's one of those unfortunate human reactions in an imperfect world.

That's the kind of setting in which Bill 142 has been created. Our fear is grounded in a feeling that this bill has been in part created out of a response to that public feeling. As members of the Legislature heard the people in their constituencies, they have felt compelled to urge the minister to adopt this kind of harsh legislation. We urge you to reconsider and not to be held hostage to that understandable sentiment. It's forgivable, but we should not accept it.

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It's reinforced by the government defence. In Saturday's paper I was alarmed, as were many people in my congregation, to read that Ontario plans workfare for recipients over 60. The quote was, "Just because you turn 60, suddenly can't you contribute?" Most people I have spoken to in the region and in provincial government admit that it's going to be hard to find jobs for even the younger, more "ready for the job market" people, but people who have turned over 60 and are suddenly forced on to social assistance aren't suddenly going to be able to have those job skills or a curriculum vitae behind them. That kind of a snap statement only further aggravates the feeling that this bill is out to stigmatize all the further the poor. That's one of our concerns.

Another is a sense that the measures that are outlined in this bill are akin to taking a baseball bat to kill a blackfly. They're pesky, those blackflies, but you don't need baseball bats to lay waste to them. Most students of social

assistance programs recognize that if there is abuse — we all have our favourite anecdote of somebody who is abusing; even the Prime Minister of Canada talks about beer-drinking welfare recipients — would estimate maybe 2% to 5% of people could be identified as abusing the existing programs. Well over 10% of people are estimated to be abusing their income tax returns.

Our anxiety would be in that the rush then to try to correct the understandable errors or abuses there hasn't been time to really build a kind of bridging from social assistance back into work opportunities, self-affirmation opportunities and all the rest of it. None of the aspects of workfare as we have seen it defined, for instance, really hold out much hope for long-term sustainable jobs, jobs that would really encourage people.

Most of the people we know through the day centres with which we are associated would love to have a work opportunity. Even though every member of the committee when meeting them would probably say, "Given the baggage you're carrying, mental illness, physical disability, long histories of personal abuse, it will be lucky if you can even hold a part-time job," they would be the first to say, "I want a job, a real job."

Long-term job provision and adequate workplace legislation have all been ignored in this legislation. We think there is time to back off, reconsider, talk with us, talk with partners in the community, the people we are privileged to walk with, our sisters and brothers.

The question of liens on housing: I was on a panel on Sunday evening at a church here in Ottawa where a consultant for the ministry denied that liens could be put on people's houses. "Only if they move," said he, but to get a job, you may well have to move to another city and you may want to, but then suddenly a lien is on your house and you have put \$25,000 or \$30,000 of payments on it. You're crippled. You're not going to move.

Finally, the other point is around rule by regulation. There is so much yet to be defined that it's very hard for any of us in this room or even yourselves as committee members to intelligently debate what this will translate into. Perhaps we will have enlightened administrators and political leaders administer this legislation in the future, but for now it's all cloak and daggers or smoke and mirrors. It's the same kind of principle that is causing the teachers of this province to move minute by minute today towards a general strike. Unfortunately, those who are recipients of social assistance aren't able to strike with any effect. We hope that our passion on their behalf will be more convincing to you.

Ms Mary Kehoe: I'm Mary Kehoe. Having outlined what we perceive to be the negative aspects of Bill 142, we would like to suggest a few guiding principles for effective restructuring of social programs.

The programs should foster a sense of wellbeing and self-reliance in those receiving assistance. To the extent that the programs encourage the desire of recipients to use the assistance as a stepping stone into the economic mainstream of society where feasible, it should be on an empowering, not an intimidating, basis.

The programs should recognize that the productive foundation of any community finds its basis in the fulfilment of basic human needs and positive social values, that harsh and punitive measures have no place in a humane society.

The programs should be implemented in such a way as to support the compassionate values of our community and enhance the personal self-worth of Ontarians who face hardship and need help in times of crisis.

The Acting Chair: Thank you very much. We have four minutes, so I'll allow one question per caucus starting with the Liberal caucus.

Mrs Pupatello: I understand that all of you are involved in a front-line way in dealing with individuals who may or may not be on assistance but certainly are homeless in some cases and have other significant barriers to employment.

You mentioned specifically today the 60- to 64-year-olds who are being lumped into workfare as well as the others on assistance. I asked the minister a question in the House about this specifically, and I said that for a 62-year-old individual who has lost a job — with significant other impediments to employment, such as language issues, education issues etc — why would workfare be the career training for a 62-year-old? The response was quite indignant, "How dare you suggest a 62-year-old doesn't want to work?"

I think she made the point exactly that it ought to be voluntary for, at minimum, those in that case where, yes, the opportunity may be there for them to participate. But it simply isn't there. They have cast the net so wide to try to catch everybody, they have caught fish they never intended to catch maybe, and there is only some hope for amendments in this area. Can you comment on the mandatory part of this legislation concerning workfare?

Mr Jay: In the first place, I don't think our experience, nor that of the regional municipality of Ottawa-Carleton, the people who have been heavily involved with employment programs over the last decade or so, I would imagine, suggests that you need to move to anything mandatory. There are far more people desirous of work opportunity than there are job opportunities.

I'll just put a footnote into that. We have a program where three of the front-line day centres who are represented in this room today have worked together, with funding from the regional municipality and church funding, at a community jobs program which linked up people coming to a drop-in with part-time opportunities raking leaves, putting up storm windows, shovelling snow and so forth. One person has been able to generate many, many jobs. Unfortunately, the funding has run out, and that job has been discontinued as of November 7.

Mr Kormos: I should mention that yesterday in North Bay, Reverend Frazer, the chair of the North Bay Presbytery of the United Church, spoke to us, and she concluded by relating the parable that most of us have been told oftentimes, the parable of the Good Samaritan, "And who is my neighbour."

You made some passing reference to the fact that there is a whole lot of currency for this type of policy out there in the community. There are a whole lot of people who are hanging on perhaps by the tips of their fingers to a middle-class lifestyle but who are concerned about the future of their middle-class lifestyle, and there has been a vilification of community, a vilification of paying taxes, for instance, by virtue of sharing, spreading resources. How do we address those people from whom there is still, I concede, some significant support for the philosophy embodied in this legislation?

Mr Bulmer: If you are going to ask someone if they want a tax reduction, they are going to say yes, and I believe that is true for a lot of people, without their necessarily knowing what the implications of that are. Where we're coming from, from where we stand, we see the implications. We see the implications for our day centres and we see the implications for the poor in our congregations.

I don't know what the answer to it is, except that it certainly shouldn't be succumbed to by government in formulating social policy, because if you're going to cut taxes and give people a tax break, then somebody's got to pay the piper.

We see where that cost is going to be borne and, at a meeting in my parish just this week with the regional councillor, many people, when they understood, when they saw what the consequences were going to be, just at the municipal level of the downloading, for example, and the additional cuts, were shocked at the possibility of the service cuts that are being faced. I think people need to be made more aware of the drastic cuts that have been already made and that are going to be made. They may indeed think twice about it.

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Mr Carroll: I appreciate your presentation today. I just want to quickly tell you Bill 142 does two things. The first thing it does under the Ontario disability support plan is deliver on a government promise that we would take the disabled people from the general welfare and from the welfare system and move them into a system of their own that was designed to deal with their particular needs in a compassionate way and be given the supports that they require to live their life or to return to the workforce if they were capable of doing that. That is one part of Bill 142.

The other part of Bill 142 is the Ontario Works part of Bill 142, the purpose of which is to allow people the opportunity to move out of the cycle of welfare dependency into the real world where in fact they have the only opportunity ever presented to them — a world of work — the only opportunity to ever break out of that cycle of poverty. That's what Bill 142 does.

I would like you to also understand that we as members of our government are also members of many different faith communities, and your faith communities do not have a lock on compassion. We are also part of a church in the various areas we live in. We are also people who have an incredible amount of compassion for the people of our

province. Bill 142 is designed, despite your interpretation of it, to provide better supports, better health for the people of the province who need it.

Mr Bulmer: You don't have a lock on the social policy either, may I add. All of those support systems already exist in Ottawa-Carleton.

The Acting Chair: Reverend, please, would you conclude. Did you want to conclude?

Mr Bulmer: I wanted to say that the support system you're talking about that Bill 142 was designed to do already exists for the large part in Ottawa-Carleton. There are enormous waiting lists for the employment programs. There is absolutely no reason for this to be made compulsory. The only reason there could possibly be is to be punitive.

The Acting Chair: Thank you very much.

ONTARIO COALITION FOR BETTER CHILD CARE

The Acting Chair: We will now invite the Ontario Coalition for Better Child Care, Cindy Magloughlin and Julie Henry.

Ms Julie Henry: I'm Julie Henry and this is Cindy Magloughlin. We're both front-line workers in child care in Ottawa-Carleton, and we're here representing the Ontario Coalition for Better Child Care.

On behalf of our membership we would like to thank you for the opportunity to appear here today. The Ontario Coalition for Better Child Care is a province-wide organization of parents, child care staff, child care programs, local child care coalitions, trade unions, education, health, child welfare, women's, rural, francophone and first nations organizations and other interested individuals. Since 1981, we have advocated for a range of high-quality, affordable, licensed child care and early education services to meet the diverse needs of Ontario's families.

There are many aspects of Bill 142, the Social Assistance Reform Act, which our organization finds problematic; however, we will limit our remarks to those sections of the bill which will impact on single mothers and their children.

Bill 142 requires mothers of dependent children to engage in work, training or community participation as a condition of receiving their benefits. These are families in transition, often facing major dislocations due to marriage breakdown, domestic violence, job loss or serious illness or disability. These women are on social assistance for the sole reason that they have acted as responsible mothers. They did not abandon or abuse their children.

The average mother will remain on social assistance for 18 months as she attempts to put her life together and provide stability for her children, yet your government has engaged in a misinformation campaign which has made these women pariahs in their own communities. Moreover, your statements and actions have stigmatized and damaged 400,000 children who rely on social benefits.

The Ontario Works legislation, with its mandatory employment requirement on single mothers, represents a

fundamental departure from income security programs based on financial need. Rather, the act, as stated under its purpose clause, assumes that individuals are responsible for their unemployment and must be the architects of its resolution. At the same time, little to no recognition is accorded the role of government in overcoming the shortcomings of our economy and the lack of services to support employment by parents who also have child-rearing responsibilities.

Ms Cindy Magloughlin: I'd like to present examples of some of the shortcomings that we see in the legislation as a program to assist mothers to make the transition from social assistance to employment.

Ontario Works requires single mothers to fulfil its requirements of training, community participation or employment as a condition of benefits. The minister has said that these requirements will apply to single parents, based on the age of the youngest child, yet no age exemption is contained in the act. This means that cabinet may alter the age exemption standards at will.

The assumption is that mothers will fulfil the Ontario Works requirements while their children are at school. Primary school hours do not mirror work hours or adult education and training hours. This leaves mothers confined to the community participation part of the program, the section least likely to result in paid employment.

We would like to add a strong caution at this point. It has been suggested by government spokespersons that women on social assistance could meet the requirements of Ontario Works by providing care for the children of participants. Indeed, encouraging women on social assistance to supply child care is often perceived by short-sighted policymakers as a quick fix to the daunting task of what to do with the children.

However, a caregiver who is chain-ganged into care as a condition of her welfare cheque will not be motivated to provide adequate care. Moreover, she will not have the financial means to provide adequate care. All the studies on home care point to the motivation of the care giver and her access to resources and supports as being essential for the quality of care she can deliver. To conscript women into providing care places children already at risk because of poverty at even greater risk.

There is a cost associated with working, training or volunteering. No provisions have been made to offset the cost of transportation, clothing or associated costs. Failure to do this represents a further substantive reduction in social assistance to women and their children.

While mothers are required to work, the act does not specify that child care must be ensured before employment requirements are imposed and there is no commitment from government to offset the cost of these supports. Contrary to statements by government representatives, reliable neighbours or relatives are not always available to take on the responsibilities of young children. Parents on social assistance will have legitimate and pressing concerns about the wellbeing of their children, and this will be particularly true for those in rural areas where

travel alone can make accessing any care arrangement impossible.

Already Ontario has a serious shortage of quality regulated child care facilities and long waiting lists are the norm for child care subsidies. In order to accommodate the needs of families on social assistance for child care the regulated system would have to double its capacity. In fact, to accommodate those parents on social assistance who are now on the waiting list for subsidized child care, the system would have to increase by one third.

The Minister of Community and Social Services has said that \$30 million will be taken from the current budget for regulated child care and made available for Ontario Works child care. There is no commitment that this care will be regulated. The practice to date suggests otherwise. Municipalities that have served as Ontario Works pilot sites have been encouraged to direct parents to unregulated care by a differentiated funding model which compensates them for 100% of the cost of unregulated care but requires them to pay 20% of the cost of regulated care.

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There are both moral and public liability issues if harm befalls a child in an unregulated arrangement that is being funded with public dollars.

This type of informal arrangement also creates a problem in terms of the continuity of care. As is the standard in the case of targeted programs, parents do successfully complete training programs and are ready to accept employment but are unable to because reliable child care is not available.

The absence of an appeal process leaves women with young children particularly vulnerable. They will be left with the untenable choice of placing their children in situations where they firmly believe their child to be at risk or losing their family's only subsistence. The lack of a meaningful appeal process leaves women on social assistance particularly vulnerable to sexual and personal harassment as others who are accountable to no one are given absolute control over their lives.

Ms Henry: There are made-in-Canada models of welfare reform that operate successfully without coercion. Here are two examples:

In 1993 the NDP fully funded 14,000 child care subsidies, allowing parents on social assistance to take jobs, training or return to school. The demand by parents for subsidies outstripped supply. This single move not only helped thousands of families to leave welfare; it provided safe, quality learning and development programs for children who were at risk because of poverty. In its first month in office this government downloaded the program on to the municipalities. As a result, 9,000 subsidies were lost.

Another example is Quebec's Families First policy. It began this September with full-day kindergarten programs for five-year-olds, before- and after-school programs for kids to age 12, and child care programs at \$5 per day for four-year-olds, with a schedule to extend the provision to infants by the year 2001.

The objectives behind the policy include the provision of early education and development opportunities to all children, early detection and prevention for kids at risk, support for working families and assistance for mothers on social benefits to take work or job training. Quebec's spending projections indicate that their Families First model will be more cost-effective than Ontario's in reducing welfare costs and produce additional savings in remedial education, child welfare, clinical treatment and health care costs.

It is a policy which doesn't divide children by their parents' income or employment status. It recognizes that all families need support raising their children and that all children benefit from early learning opportunities. It also notes that societies that do right by their children feel better about themselves. This is the model we would recommend the government adopt. Thank you for your consideration.

The Acting Chair: Thank you for your presentation. We have three minutes per caucus, starting with the New Democratic Party.

Mr Lessard: Thank you very much for your presentation. I just have one short question. Why is it, do you think, that this government seems to consider that if you can afford to take your child to a for-profit day care centre, they are providing a service that seems to have some value, but if you decide you want to stay home and care for your own child, it doesn't seem as if there's any value recognized to doing that by this government?

Ms Magloughlin: I'm not quite sure where you're going with that, but I do feel that raising children is a full-time job in itself and an honourable job and something that benefits society as a whole. I also feel that many women do want to go out to work, as evidenced by the women on welfare on waiting lists, and should they choose to do that, as many of them would, they should be provided with regulated, high-quality child care settings for their children. Does that answer your question?

Mr Lessard: Yes.

Mr Kormos: In your submission you talked about the average or the typical, if there is such a thing, but a scenario of a woman who is going to spend perhaps 18 months on assistance getting things going and then will be off. That corresponds to the data we got this morning that 93% of the children on social assistance weren't born on social assistance. They were born into families or into households wherein there were incomes but crises intervened, as often as not spousal abuse or violence towards children or a parent. We also learned yesterday the incredible new waiting list for child care in North Bay. What's the status here in Ottawa?

Ms Magloughlin: The waiting list for infants is close to two years. They are not infants any more.

Mr Kormos: The baby is not a baby any more.

Ms Magloughlin: You have to get on the list the day you get pregnant and then your second child will get a vacant space.

Mr Kormos: Preferably before conception.

Ms Magloughlin: Exactly. On planning on having a family. But frequently people won't get their infants into licensed care. They'll get their second child in because they've been on the waiting list for two years or more.

Mr Carroll: Thanks for your presentation. I just want to make a comment on that wonderful NDP program started in 1993 to fund 14,000 child care subsidies. You say this single move not only helped thousands of families to leave welfare, it provided safe — the numbers don't bear out your contention. In actual fact, the number of people on FBA rose from 295,000 in 1992 to 314,000, 326,000 and 327,000. So the provision of those government-paid day care places did not provide any relief from welfare.

The other thing I would like to ask you to comment on is: a single working mom, out working, doing the best she can. She's got a couple of kids. She needs to get some day care for them and she gets unregulated day care for them. I know lots of examples of that and that works out fine. If it's sufficient, if it's good enough for her in her circumstances, why is it not good enough for somebody who is on welfare or family benefits to access unregulated day care?

Ms Magloughlin: If you don't mind my answering that, the second part of your question, I think we do have to look at that unregulated sector in terms of some kind of regulations, because the majority of care is being given in the unregulated sector. I think the statistics show that regulated, licensed care with trained early childhood educators is the best setting for young children. That's where you see the payoffs of \$1 spent now leading to \$7 in savings later on.

But we do recognize that a great part of the care is given in the unregulated sector, and I think we do need to look at some forms of expanding licensed family home day care to bring some kind of supervision and accountability for public dollars into that sector, and to expand the resource sector of child care so that the people who are at home and choose to offer care will have more support.

Mr Carroll: So you would admit that some of that unregulated day care is acceptable.

Ms Magloughlin: Oh, yes. There's no question about that.

The Acting Chair: Thank you for your presentation.

Mr Cullen: You forgot your favourite caucus.

The Acting Chair: I did. One question.

Mr Cullen: You mentioned earlier the Jobs Ontario program. This was a program here in Ottawa-Carleton, from my recollection, that was oversubscribed. There weren't enough spaces to go around. When the current government ended that program, what happened to those spaces?

Ms Magloughlin: The child care community in this region and the regional department committed themselves to maintaining those spaces. So we jointly cut back our budgets by 2.1% in order to find the 20% that the region would have to pay to hold on to those Jobs Ontario spaces. We've continued to allocate those spaces to low-income parents trying to get into training or into the workforce,

and we're 110% utilized. We've overspent in fact in that area.

Mr Cullen: Would you not say that there is today still a great need?

Ms Magloughlin: Absolutely.

Mr Cullen: As a matter of fact, the money that was promised by this government, the \$40 million that was promised by that government, and put people to work by providing adequate, safe, quality child care, will be just eaten up here, will just be swallowed up today.

Ms Magloughlin: Absolutely.

Mr Cullen: Forty million unspent.

The Acting Chair: Thank you for your presentation.

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MULTIPLE SCLEROSIS SOCIETY

The Acting Chair: Now I'd like to call upon the Multiple Sclerosis Society, Monique Cassidy.

Interjections.

Ms Nickie Cassidy: I won't start till they're finished.

The Acting Chair: I'm sorry. I think we should be polite enough to listen to our presenters. You have 20 minutes for your presentation, and I promise you I'll try and keep everybody on side this time.

Ms Cassidy: It doesn't matter. Anyway, my name is Nickie Cassidy. I live here in Ottawa and I have been the member representing eastern Ontario on the MS Ontario social action committee for 10 years. I have MS. I'm here today to represent the Ontario division of the MS Society, the only voluntary organization in Ontario that supports both MS research and services for people with MS and their families. You'll find more detailed information about the MS Society in the written brief, which I'm not following at the moment, by the way.

To begin, a few words about MS. It is the most common neurological disease among young adults in Canada. The disease interrupts and distorts the flow of nerve impulses which may result in vision problems, numbness, loss of balance, extreme fatigue, tremors and even paralysis. MS usually attacks during early adulthood, just when individuals are beginning careers and starting families. Given the early onset, the economic impact upon individuals and families can be marked and long lasting. It is not uncommon for a person with MS to lose his or her employment within five years of diagnosis. Spontaneous recovery from symptoms can occur and last for several months or years. But MS is often progressive and characterized by unpredictable attacks that cause further disabilities, which often require the use of wheelchairs or scooters.

The cause and cure of this disease are unknown. There is no specific treatment, although some of the symptoms can be helped by medications and therapy. A universal income security plan is therefore crucial to those individuals with MS who are unable to continue working.

The MS Society is pleased to have this opportunity to provide our views. Given the time allotted, we've chosen to focus our attention on one aspect of the legislation, the

Ontario Disability Support Plan Act. We are confident that our presentation will contribute to a greater understanding of how Bill 142 will affect people with disabilities and particularly those people with MS.

We commend the government for creating new legislation which will provide income and employment supports to people with disabilities and remove them from the welfare system by creating an income support program specifically designed to meet their unique needs. There are additional parts of the legislation that we are pleased about and these are also outlined in the written brief.

However, we have identified several areas in the legislation that are of concern to people with MS and which we feel must be addressed. They are the definition of a "person with a disability;" the provision of repayments; the infrastructure for education, training and retraining; the appointment of a person to act for recipients; the appeals process; the eligibility for employment supports; and the scope of the regulations.

At this junction in defining our concerns, I will follow the written brief as closely as possible beginning on page 3. Definition: We are concerned with clause 4(1)(b) where the word "and" was used rather than "or" to refer to the three areas of functional limitation: personal care, functioning in the community, functioning in the workplace. If left unchanged, individuals will have to show a substantial restriction in all three areas in order to qualify. This will exclude many people with disabilities who are genuinely incapacitated. Disability groups estimate that people with this kind of severe and permanent disability account for only 10% to 15% of those currently on social assistance. Many younger, potentially productive people will be excluded if the word "and" is retained. We would therefore recommend that this paragraph be modified slightly to read:

"(b) the direct and cumulative effect of the impairment on the person's ability to attend to his or her personal care or function in the community or function in the workplace results in a substantial restriction in activities of daily living."

The provision of repayments: In sections 7 and 8 of the act it states that as a condition of eligibility for income support a recipient or dependant who owns or has an interest in property must consent to the ministry having a lien against the property and, furthermore, that the applicant must agree to reimburse the income support to be provided. It would appear that, in certain circumstances, income support payments are to be regarded as a loan to be repaid and that the applicant must agree to a lien against his or her property to repay funds at a future date and even to assign expected income for this purpose.

While our laws now protect provincial social assistance and disability allowances from being seized by creditors, Bill 142 would specifically authorize the recovery of "government debts." This would seem to be unduly harsh, especially for dependants. Surely a child should not be forced to incur a long-term debt simply because a parent had the misfortune to become disabled and a recipient of

government assistance to make ends meet or return to work.

Education training and retraining: Looking at employment issues, we believe the intent of the act is to support people with disabilities in the return to work. Under section 32 it states that employment supports will be provided to remove barriers to employment and to assist a person in attaining his or her competitive employment goal. It's not clear, however, if employment supports will include post-secondary education or training and retraining in the case of an individual who has a recurrent impairment that has mandated a career change. Education and retraining opportunities are vital for people with MS who may have to consider an alternative career due to disability.

Although the types of employment services to be provided are not specifically outlined in the legislation, it is our understanding that those recipients who are able to work will be provided with the necessary training and/or vocational rehabilitation in order to return to or remain in the workforce. This is very important. Vocational rehabilitation services can make the crucial difference in an individual's successful return or entry into the workforce. This is especially true for people with MS. The fluctuating nature of the disease often means that a person with MS must evaluate and re-evaluate their ability to remain employed.

Vocational assessments and supportive counselling will help people with MS in managing their disease and its effect on their ability to work. The provision of adaptive devices and equipment will also be important if people with disabilities are able to compete equally in the workforce.

In clause 12(1)(b), the director is allowed to appoint a person to act for a recipient under certain conditions, including when "the recipient is incapacitated or is incapable of handling his or her affairs." Many individuals with MS have very serious physical impairments and yet are mentally alert and quite competent in handling their own affairs. To protect their rights, we would suggest that section should be amended to read:

"(b) that a recipient is incapacitated and is incapable of handling his or her own affairs."

Appeals: Section 21 outlines decisions that may be appealed to the tribunal. There are three other situations that arise that should be considered when granting the right to appeal. First, the decision to provide a portion of income support directly to a third party, for example, could result in funds being provided to an unscrupulous landlord. Second, the decision to appoint a person to act on behalf of the recipient could result in a person being appointed who is completely unacceptable to the recipient. Third, an inappropriate or adverse employment support decision may be made by the local service coordinator. In this instance, the individual should have the right to appeal the decision as they can now under the Vocational Rehabilitation Services Act. We believe the right to appeal employment support decisions would be an important accountability mechanism, given that rehab services are to

be privatized. We feel that, as a minimum, appeals should be allowed in these three situations.

Clause 33(c) also raises a major concern in that it gives the government the authority to declare entire classes of people ineligible for employment supports. At this time, the Canada pension plan is operating a national project to provide rehab services to selected disability benefits recipients. Several people with MS who have contacted our society are frustrated that they cannot enter the program because their MS is not considered to be medically stable. We are concerned that clause 33(c) may allow the Ontario government to declare people with fluctuating and recurring conditions as medically unstable and hence ineligible for employment supports.

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Regulations: Finally, the phrase "in accordance with the regulations" appears many times throughout the legislation. We would prefer to see more powers vested in the act itself. Indeed, many of the positive aspects of the ODSP, such as the elimination of the 25% copayment currently imposed under the ADP, the raising of liquid asset levels for the determination of eligibility and the funding of a separate home and vehicle modifications program, are not in the act but appear in a press statement made by the minister on June 5, 1997. We can only hope and assume that these positive measures will appear in the regulations.

It appears that the scope of the regulations will be broad and all-encompassing, however. We therefore urge the minister to allow wide public consultation on the regulations to ensure that they do in fact meet the intent of the legislation and the needs of people with disabilities.

To conclude, we are gratified that the government has acknowledged the very specific requirements of the disabled community in the ODSP act. We are also pleased with various statements made by the minister which indicate an understanding of the difficulties faced by persons with MS. This understanding encourages us to believe that the regulations will be written in a fair and balanced manner.

However, as I've outlined, there are important aspects of the act that we believe should be modified, and I repeat: the definition, provision of repayments, infrastructure, appointment of a person to act for the recipient, appeals process, eligibility, and scope of the regulations.

We offer these suggestions for your review and positive consideration.

The Acting Chair: Thank you for your presentation. We have 12 minutes, so four minutes per caucus, starting with the Progressive Conservatives.

Mr Carroll: We appreciate your presentation. I'll just dwell on a couple of things here. In the area of appeals, you have a concern about vocational rehab appeals and decisions made about employment supports. I'd just like to read from the binder that all members of the committee have, because this is the easiest way to clarify this issue: "The new employment supports system would include a well-defined, local decision review process that would involve consumers and other key stakeholders. Service co-

ordinators would be required to establish an independent, arm's-length decision review committee. This would represent a move away from the current approach which is rigid and adversarial." So there will be an appeal process under that. It will not be hooked in with the Social Benefits Tribunal but it will be arm's length, it will be independent and it will be available to people who want to appeal the decision made by the employment supports people.

Ms Cassidy: Why is that not in the act?

Mr Carroll: As you know, there are so many things that don't get put into acts.

Ms Cassidy: Yes, but there are too many things not put in the act. I've got the schedule here if you'll tell me which page.

Mr Carroll: I've just been reminded that it is in the act.

Ms Cassidy: Yes, it is.

Mr Carroll: "The service coordinator shall establish a dispute resolution process for the purposes of subsection (2)." But as you know, when you talk about regulations, this piece of legislation is no different than every other piece of legislation.

Here are the current two bills that govern FBA and GWA, and in these bills things as simple as defining a person in need are in the regulations. Things such as prescribing classes of persons are in the regulations. So we have gone much further with Bill 142 at putting into the act at least the definition of disability.

Ms Cassidy: But the wrong one.

Mr Carroll: There are many things in the act but there are also many things left to regulation, and that is no different than any other bill. This is what we're currently dealing with.

The other issue I just wanted to touch on for a bit is the area of liens. I know you have a concern about liens. There is no intention for these programs to become loan programs, but I'm sure you would agree with me that if somebody has need of some temporary assistance because they are awaiting access to another government program, be it CPP or some other benefit program, if they are going to be getting income for a period of time from that program at some time in the future and if they receive support from the government under Ontario Works or the Ontario disability support plan for that period of time, that would be double-dipping from government programs and should not be allowed. Would you not agree with that?

Ms Cassidy: No. What you're saying, if I understand — unless the second program they were waiting for was going to be paying them retroactively, in which case, fine. If that's what you mean, I don't think there's a problem with that. However, that's not the way this reads.

Mr Carroll: The intention of the act is that there will be no double-dipping.

The Acting Chair: I'm sorry; we must go on.

Ms Pupatello: That was a long four minutes. Every time the parliamentary assistant asks questions, it scares me further that I can't anticipate certain amendments that I think they should consider.

You had an interesting fact in here, and it was that only 10% to 15% are what you or those you work with would call severely, substantially disabled.

Ms Cassidy: These are different disability groups Canada-wide. I am just repeating what the research people at IMS Canada came up with. Certainly in Ontario, studies have been done into that kind of thing. I'm sorry I didn't bring them with me, but only 15% to 20% of people who are currently on the program have got severe enough — for instance, according to this, I'm not a person with a disability, nor are a lot of people with MS.

Mrs Pupatello: The way the act is written today, in Bill 142 you have two baskets: either you are substantially disabled and you get into the big basket, or you're in workfare. That's it. It's like Norman Rockwell days of the 1950s: Life is simple. It's two things: either substantially disabled and in the big basket or Ontario workfare for everybody.

If we don't see specifics about the definition more pointedly, several people who have been to the table before you won't get into the basket and you will be subject to workfare, with all that means, whether the community can have public workfare positions created, as in some northern communities where they're painting park benches, where you know the city is not going to hire a park bench painter out of the deal. It just speaks to how if only you would make it a volunteer program as opposed to a mandatory one, local communities find local ways to help move people into jobs where the people want to go in the first place.

Ms Cassidy: The only thing I would respond to that is — that was nice. All we're asking for is to slightly broaden the definition to include those people who don't meet the three criteria. In other words, I meet two of these three criteria but not the third one. Therefore, if something should happen that I would need these benefits, I couldn't get them.

Mrs Pupatello: And I guess you just described in your presentation that even if they change the "and" to "ors" there will be people who still won't fit in the basket for substantial —

Ms Cassidy: That's true, but more of them would. Look, we're not trying to get everybody into the one basket. What we are saying is that those people who belong in the basket should be there. I'm not entirely sure that this was not simply one of those writing errors. There is one place where I'm asking for an "or" and another place where I'm asking for an "and." Remember, this is not my personal position; it's the position of the Ontario division of the Multiple Sclerosis Society. The position is that if the change in wording for the definition was to "or" instead of "and," at least it would get those people who truly need the ODSP.

Mrs Pupatello: It would take in your group, is what you mean.

Ms Cassidy: No, not only our group; a lot of other groups of people with disabilities. Certainly our group — that's who I'm speaking to at the moment — but I think collectively it would also get a lot of other people who are

caught in the crack right now. What we're trying to do is cement over that crack.

Mr Lessard: Mr Carroll got cut off when he was talking about the regulation-making power, and I think he meant to add, "Trust us," and, "The cheque is in the mail." He never got to that part.

You made a statement in here about some things that you thought were benefits, and one is that individuals receiving Canada pension plan disability benefits would automatically qualify for the ODSP.

Ms Cassidy: That's the minister's statement. This is what we're asking for, that those things that were in the minister's statement in June be actually placed in the act. I don't think it's unreasonable. I think the intent of what she was saying seemed perfectly clear, and if many of the things I'm speaking about today were in the act, I might not even be here. I probably would. Still, a lot of the points that are of concern to people with MS are currently in the regulations, not the act.

This was from a statement by the minister on June 25.

Mr Kormos: Thank you, Ms Cassidy. I've got to tell you, I think this is a very carefully drafted bill. I really do. When one looks at the minutiae here and sees the use of language, one understands that it all ties in. When you look at employment supports, the prescribed employment supports "may" be provided. There is no right to employment supports. Then further on in the regulation-making powers they talk about proscribing certain employment supports; in other words, making them unavailable even if they're appropriate.

You've been very balanced, I've got to tell you, in your submissions here. You came here with enthusiasm for the intent of the bill.

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Ms Cassidy: The intent, yes.

Mr Kormos: I've got to tell you, for the life of me I can't understand. Here we are in the fourth day of public hearings. When I was in government, and I was, during 1990 to 1995 — I was in opposition before that — during the course of hearings, yes, I was critical of bills that my government put forward in response to people who came to committees. When they made sense and I recognized it, I would stand up and say, "They make sense and they're right."

Why can't we here have some positive response to the incredibly valuable contribution being made by members of the public to this exercise? Surely among the five of you there's somebody who can stand up and take on your party whip and not just sit here reading your mantra over and over again. Please.

Interjections.

The Acting Chair: Please, please.

Ms Cassidy: Can I just conclude?

The Acting Chair: Absolutely.

Ms Cassidy: Mr Kormos made a statement that no one has supported — I heard Mr Preston out of my left ear say that it seemed to be a reasonable thing when I was describing two things, the disability definition — was that correct?

Mr Preston: That's right, which we've already said and he knows we're changing.

The Acting Chair: Mr Preston, please.

Ms Cassidy: Fine. If you're changing it, great. The last point is the one about the ministerial statements. Are they going to be put in the act? Will you fight for that?

Mr Preston: She said it; it's done. But I don't expect to get applause from Mr Kormos.

The Acting Chair: On that cheery note, I'd like to thank you for your presentation.

Mrs Papatello: A question for the table, Chair.

The Acting Chair: For the table?

Mrs Papatello: For the staff, actually, for the clerk and staff. I have a question for Hansard. I'm curious to know if the parliamentary assistant's comments, which were not on record, I don't think, but if Hansard picked up that it was a typographical error, the "and" versus the "or" in the definition. Can the Hansard check today, please, if that was picked up?

The Acting Chair: We'll have to wait and see the print.

Mr Cullen: It would certainly help the presentations.

Mrs Papatello: I'd like to have an answer.

The Acting Chair: As soon as it's printed. We'll have to wait and see.

Mr Preston: I didn't hear that.

RENFREW COUNTY LEGAL CLINIC

The Acting Chair: I will now call upon the Renfrew County Legal Clinic, Felicite Stairs. Please have a seat. Never mind the kids; they're just having fun. You have 20 minutes for your presentation and you're welcome to start any time.

Ms Felicite Stairs: My name is Felicite Stairs and I'm a staff lawyer from the Renfrew County Legal Clinic. Renfrew county is Ontario's largest county. It's northwest of Ottawa and it's huge. I've been trying to get a square kilometrage for everybody and I couldn't run one down in the time I had available to do that. But essentially, when you get to Renfrew county, you drive three hours north or you drive three hours west. That's how big Renfrew county is. In that area there are 90,000 people. Our biggest city has 13,000 people. We have a series of small centres, five or six of them, and then the rest are much more isolated.

I've come today to speak specifically about issues that have been of great concern to the clients in my clinic. The Renfrew County Legal Clinic is a community legal clinic serving that entire area, and a large part of our caseload and the summary advice we give to people is in the area of social assistance.

Renfrew county also is one of only three counties that have not yet been consolidated in their welfare system. What that means is that we have had to deal with 37 different welfare administrators every time, one for each municipality, so we have a great deal of experience with different ways that welfare administrators can deliver a

legal system, a legal regime, even though the law remains the same.

There's a great deal we could say about Bill 142. I've tried to choose just a few issues to talk with you about. I wanted to state that I endorse the Ontario Legal Clinic Steering Committee on Social Assistance brief on Bill 142. I know you all had a presentation on that and have a copy of that. The issues that I've chosen don't reflect that one issue is more important than another. It's very difficult choosing what we focus on here.

The issues that I have chosen, interestingly enough, by and large affect not only those people who will be under the Ontario Works program, but those people who are also under the Ontario Disability Support Program Act. When we're talking about taking people with disabilities out of the welfare system, we have to remember that a lot of the eligibility requirements are the same.

We've heard a lot about regulation-making power here. I just want to reiterate that I too feel we need to see what those regulations say. I'm not suggesting that the government does not have the ability to put large parts of a regime into the regulations, but for us to have a reasonable debate about what Bill 142 actually means — we know it's taking a hugely different direction in social assistance programs than we've ever seen in Ontario before, and the government has said it wants to take a radically different direction. In that case, if we're to evaluate whether this is the direction we want to go in, we have to see what those details are. We urge the government to release those regulations as soon as possible and before the bill is passed.

I'm going to talk about details of the program here. The first detail that I want to talk about are the information requirements. Both the Ontario Works Act and the Ontario Disability Support Program Act state, "No person is eligible for assistance unless the person and the prescribed dependants provide the information and the verification of information required to determine eligibility, including..." and it lists the type of information that will be required.

This means that no matter how needy an applicant is, they can't receive benefits until they have provided all the information that has been required. It means that no matter how well the welfare worker knows — and of course in Renfrew county, welfare workers know people. They've seen them in the community and they've had previous experience with them. No matter how well that welfare worker knows this person is actually eligible, they can't grant benefits until all the bits of paper have come in.

We don't know what that information will be, as it will all be in the regulations, but we can guess. I've put an extensive list, but I know there are ones that I've left out, of the kinds of information that the ministry and welfare administrators already ask for when you go for your initial application or your update.

They ask for birth certificates, and this is for all members of your family; health cards; social insurance numbers and social insurance cards; separation agreements; divorce certificates; adoption papers; immigration papers;

income tax returns — for the past three years, by the way; bankbooks and statements for the past three years; deeds to your house; rent receipts; hydro bills; gas bills; water bills; tax bills; mortgage agreements; insurance policies; cash surrender values of your insurance policies; explanation and verification — when they go through, they look at your bankbook, and if they see any deposits for the last three years that are over, in my experience, \$1,000, they say, "Where did that come from and where did it go and where's the proof of that?"; verification of the value of any assets you have as well as the value of and what you did with any assets that you disposed of within the last three years — mind you, if you don't provide that, then that's fraud: you have to provide this, you have to be up front, and clients generally are; verification of closed bank accounts, whether or not your name was on them, if they have any association with you.

I left out the verification of what happened to cars. This happens all the time, that people will have a car and they sell it or they dump it or they do whatever and it's not deleted from the Ministry of Transportation system. So when welfare, or family benefits now, looks up whether or not you have any cars in your name, they'll see nine, 10, 13 cars in the life of somebody who is now 50. They will say, "Give me verification of what happened to those cars." You can say, "They only go back three years," but of course it's still listed in your name, so that's within the three-year period.

These are some of the examples, and I am not making this up. They will require all that information. Under Bill 142, they will require that before they will give you any money at all.

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These items cost money, is the other thing. They not only take time and running around — in a place like Renfrew county they take going from your small settlement into Pembroke or into Ottawa — but they cost money. They also can be just plain impossible to get. If you left an abusive situation, you may have left papers behind; you didn't think you'd need all those things as you rushed out of the house. So you have to reapply.

I have a couple of stories. I checked with my clients and, yes, they wanted me to go forward and tell you what has been happening to them along these lines.

One of them is a client who had a deposit. He had a court settlement and he got \$4,000 a year and a half ago. He is disabled. He is medically eligible and he gets Canada pension, fortunately. He got that \$4,000, and it showed on his bank account at the time he applied for benefits several weeks ago. He gets \$700 a month, and that's all he has had during that whole year and half. So \$4,000 over a year and a half gives him an extra \$200 or so — I'm not sure of the math, but it's not large — of disposable income. He has to show and provide receipts for where that \$4,000 went. He doesn't get his benefits, he's not eligible, until he does. He is fortunate. He has got another income, his CPP, so he's getting by on that until we can get the verification.

Another of my clients is seriously depressed. She is medically depressed; that's her medical condition. She is disabled because of the depression. She had been on benefits and then she got off when her husband had some earnings. They split up, and now she needs to get back on benefits. She has to produce all this information, including the deed to his house. He has gone to Alberta. She can't get a deed to his house. She can't afford to get a copy of it, whatever. The other thing is, she is depressed, so she can't figure her way out of it. She has ended up in hospital. There have been a whole number of other items of verification she is having to get that have been a problem. She gets depressed. She spent three weeks in the hospital because of the stress of this. As I was talking to her today, we thought maybe we should have brought the psychiatrist along to testify, to really give you the impact of what happens to people.

Bill 142 will not even give you welfare. You will get nothing until you provide all this documentation. If you get nothing, you have nowhere else to go, so there has got to be an amendment to Bill 142 that gives the welfare administrator some discretion to use some sense in determining what information is absolutely necessary to determine eligibility and what can be deferred until a later time.

The second section I wanted to talk about was the section that gives the Lieutenant Governor in Council, cabinet, the power to determine that certain classes of people are not eligible for assistance. This is a regulation. It will be made by cabinet behind closed doors. It means that people can be found ineligible not because they're not in need or even because we have deemed that they have income they are not getting, but simply because they have a characteristic that we're not aware of right now that says they're not eligible.

I find myself looking at my clients and saying, "Are you in the class that's not going to get benefits?" That's a really scary feeling. Who would be ineligible under this power? There is nothing in the act that says a certain group is exempt from being determined ineligible.

Looking at recent American welfare laws, we can see some possibilities that might be out there: single men and women, 16- and 17-year-olds, single mothers who have had another child while they're on assistance, that child even if the mother is eligible, anyone receiving assistance for two years at one time, anyone receiving assistance for five years over a lifetime, immigrants. If any of these groups or any others are made into a class which is ineligible, again, they are not going to be able to get assistance. There is nowhere else to go. Social assistance is a program of last resort, and they can't go there.

We may decide as a society that it's okay to say that a certain class of people is not eligible for assistance. I'm not here to make that decision and neither is this committee, but it has to be debated. It's a huge, huge question. It has to be done in broad daylight with open and public debate. Our recommendation is that that section just be deleted.

I also wanted to talk about appeal rights and decision-making. How much time?

The Acting Chair: Six minutes.

Ms Stairs: We have a lot of concerns about the appeal system as it is being set up in Bill 142, and the legal clinic steering committee brief addresses a lot of those concerns, so I urge you to review that when you're looking at the appeal system.

I want to say, though, that while we're looking at the appeal system, we have to remember that it's critical that we do everything we can to make sure we get the decisions right in the first place. Having an appeal system that works like a charm and has all the procedural fairness built into it that we can put in there doesn't really do anything if the laws themselves are unfair, so you can't have one without the other.

One of the sections I wanted to bring your attention to was the obligation to give notice. There is a requirement under the Ontario Works Act and under the Disability Support Program Act that notice be given of a decision that may be appealed and that that notice tell you that you have a right to an internal review.

Many decisions aren't appealable under Bill 142. The acts allow those decisions to be implemented without notice, so the first thing you notice is that you didn't get a cheque this month because your cheque has been diverted to your landlord or to somebody they think should be administering your money. Suddenly you didn't get it, and you had no right to notice. That's a very, very scary thing to have happen and should never happen.

What I am suggesting is that applicants and recipients should be given notice of all decisions affecting them, and also the reasons. Basic fairness requires that you be given notice of what the reasons are. Many times, once we determine what the reason is for the welfare administrator's or family benefits' decision, the client says, "Oh, yes, I get it now." It's explained to them, and that's particularly on overpayments where they are just told, "Here, you owe money." They need to know why, so the basic right to reasons.

I have handed in a written submission. I don't know whether people have questions, but I urge you to read the appeal rights here and the appeal rights in the legal clinic steering committee brief. I'll stop there.

The Chair: Thank you for your presentation. One question per caucus, starting with the Liberal caucus.

Mr Cullen: I have one question, an item you didn't touch on. You did mention that your clinic is in Renfrew and you described Renfrew. Would you tell me that mail that is mailed on a Friday would end up someplace on a Monday in Renfrew?

Laughter.

Ms Stairs: It's in my written submission, but you're right; I didn't bring it up. Those are people from Renfrew county laughing.

Mr Cullen: I'm referring to section 68: "If notice is given by ordinary mail, it shall be deemed to be received on the third day following the date of mailing." That's tremendous faith in Canada Post, but out in Renfrew county, to mail it on Friday and expect it to be received on

Monday I don't think is being reasonable, and you have just verified that.

Ms Stairs: Absolutely. It will take seven days for something to get from Toronto to Renfrew county. Everything in Renfrew county, except within the city of Pembroke, gets shipped out to Ottawa to get sorted and then shipped back, so it will take inevitably more than three days.

We have put a recommendation in there. Right now you are deemed to have received your notice of decision, so your clock starts for your appeal rights at the time you are deemed to have received it. We are suggesting that this be amended so that there either be a longer period right up front in the legislation or there be not an absolute deemed to be received but — I think the way we've written it is that section 68 of the Ontario Works Act and section 50 of the Ontario Disability Support Program Act should be replaced by, "If notice is given by mail, it shall be presumed to have been received on the third day after the day of mailing unless the person to whom notice is given did not, through absence, accident, illness or other cause beyond his control, receive the notice until a later date."

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Mr Kormos: Back to this, basically it's a proscribed class of persons. By regulation they can prescribe a proscribed class of persons. Mrs Papatello has been talking about this, and Mr Carroll earlier today said, "That means we're going to use that to prevent people in jail from getting welfare." I sort of scratched my head and I thought, *prima facie* people in jail don't have any budgetary needs and they're *prima facie* not eligible anyway. They don't need the proscribed class of persons to prevent people in jail from getting welfare, so it must mean somebody else.

It must mean perhaps the prospect of single men. Since this is emulating some American models, it might mean persons who have received social assistance for a period of, let's say, five years, another American invention. That class of persons could be proscribed. It could be, let's say, persons seeking refugee status here in the country, like gypsies or Somalis or classes of people like that. I'm troubled by the parliamentary assistant's reliance on persons in jail, who of course have been getting a little bit of press, when it obviously means something far more than that because persons in jail are already dealt with under the act.

Ms Stairs: Yes, and you can also put something in the act, if that's what you want to do, proscribing that those people are not eligible or stating that those people are not eligible. On the other hand, I should also point out that it depends how long you're in jail for as to whether or not you have any budgetary needs. If you're someone who's been in for a short period of time and you get nothing to pay your rent, then when you come out you're homeless.

Ms Stairs: Absolutely.

Mr Klees: Thank you for your presentation, Ms Stairs. You've made some very positive suggestions, and one aspect I certainly concur with you on is the amount of detail, the amount of information that's being processed in

the system. Over the last number of months I've had the opportunity to travel to a number of centres in Ontario and meet with our front-line workers. Every time I've passed their desks — I don't think I've seen a file in a community and social service agency that's less than three inches thick. I keep asking them what's in there. Every quarter inch has to represent a great deal of time on the part of the employee that employee then doesn't have to spend face to face with someone who needs their attention.

We are looking at that. I want to assure you that it is something we're aware of and that we are focusing in on. We're introducing an extensive overhaul of some technology that hopefully is going to make the life of our front-line workers much easier. As you're probably aware today, from one region to another we don't know who's on social assistance. There's really no communication across the province.

I have a question for you, though. As a government we have the responsibility to be good stewards of the tax dollar. For every person who collects ineligible benefits — whether it's 2% or 1% or 20% isn't the issue — for every person who is collecting welfare inappropriately or fraudulently, it's taking something away from someone who deserves it. How in your opinion can we ensure that stewardship responsibility is met without overloading the front line?

Ms Stairs: Of course you have the obligation to do that. It would remind you that people who are on social assistance are also taxpayers. I'd get on to that. There's an obligation to ensure the integrity of the system. Nobody has suggested that they don't. But what has been happening is this demonization of the poor, this jumping on the bandwagon that we have to verify this, that and the other. Frankly, if we look at the number of clients who get underpaid on the system, we would be looking at a huge figure as well, and those are people who, because of mistakes made by their workers or overwork or whatever, are not getting the correct amount in benefits.

I always have a difficult time with the confusion people have between fraud and people who get benefits they're not entitled to. People get benefits they're not entitled to for a whole series of reasons, most of which have nothing to do with fraud. We have a system set up already, an overpayment recovery system whereby those overpayments are recovered when they're discovered. Bill 142 takes that to an extreme, and there are comments on that, but obviously I can't get into that.

You have to look carefully about the information you are requiring. Bill 142 not only requires a particular verification of a particular fact, but can require verification in a particular document. If you don't have this form, then you don't get it even if you can verify that information some other way. If you already know because you have photocopied the information 15 times or seen that the information exists, then surely you don't need to have that information again. You have to make sure it's relevant, whether or not the person is in need, and give them time to provide that information; give them some temporary assistance and provide them some time.

The Acting Chair: Thank you for your presentation.

CARLETON UNIVERSITY
SCHOOL OF SOCIAL WORK

The Acting Chair: Now I'd like to call upon the Carleton University School of Social Work, Allan Moscovitch.

Mr Allan Moscovitch: Good afternoon. Bon après-midi. I'll address you in English. Je vous adresse la parole en anglais aujourd'hui, mais je peux répondre aux questions en français, si vous voulez. I'm going to speak in English this afternoon and I want to focus on just a few issues that are raised among the many raised by this legislation. I want to start by giving you a bit of background. I ask you to recall this document, the Transitions report, of the Social Assistance Review Committee which appeared in 1988 and was the first of several pieces of documentation over the last 10 years to review issues of welfare and poverty in Ontario in some considerable detail.

The philosophy of Transitions and some of the steps that were taken in the wake of Transitions could be summarized I think in one paragraph drawn from page 8 of the report. I would commend this particular paragraph to you. I should say that I have a written brief and I will make copies available to you subsequently, but the paper is still warm and I noticed a few typos when I ran it off this afternoon.

Here's the paragraph: "All people in Ontario are entitled to an equal assurance of life opportunities in a society that is based on fairness, shared responsibility, and personal dignity for all. The objective for social assistance therefore must be to ensure that individuals are able to make the transition" — therefore the title "Transitions" — "from dependence to autonomy, and from exclusion on the margins of society to integration within the mainstream of community life."

It seems to me that one paragraph summarizes much of what Transitions had to say and at least some of what followed in its wake. In 1989 the provincial government gave its response to the Transitions report in the form of the STEP program, which was meant to be a down payment towards the implementation of the report which was set up in a series of phases. In 1990 the government appointed an advisory committee on new social assistance legislation to develop a legislative framework based on the Transitions report.

One of the key recommendations of Transitions was to fold the General Welfare Assistance Act and the Family Benefits Act into one piece of legislation. The primary mandate of that committee was to look at recommendations on how to do that. There were some 240 issues of difference between the two pieces of legislation. I was the chair of that advisory committee.

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In June 1992, the committee submitted its report. It was called Time for Action; that's the report. I recently got a phone call, within the last two or three weeks, from some

of the staff at the Ministry of Community and Social Services telling me there were extra copies of the report still around and asking me if I would like them. I would be happy to give those to members of the committee so that they would have an opportunity to see what has been said in the very recent past in a major project of review of the legislation and see the kinds of recommendations the committee made.

I would also add that the committee's work was based upon an extensive period of two years of inquiry which involved both staff from the ministry as well as staff from municipalities and community organizations from around the province. There were some 45 background studies prepared so that, for example, were committee members to disagree with the path taken in the recommendations of the report, they could go back into the background studies and see the many different approaches that were considered and examine the strengths and weaknesses of each of those as they were evaluated by the many different committees that were set up to do it. A lot of the committees contained a combination of senior staff and front-line workers who gave consideration to the kinds of very practical issues some of the other people have been addressing today.

The Common Sense Revolution document and the legislation we're dealing with today, Bill 142, which it seems to me is an attempt to incorporate the philosophy of the Common Sense Revolution, represent a significant reversal of the direction of welfare reform over that period. It appears to take a cue from some of the American states — and this is from the Common Sense Revolution document — welfare as fraud, welfare rates too high, growing numbers of persons dependent on welfare in the first half of the decade of the 1990s and large numbers of recipients who by implication are lazy and must be obligated to seek worker retraining under workfare. These are all part of the Common Sense Revolution document, which I've had a chance to examine quite thoroughly. Persons with disabilities were promised, as part of the CSR, that they would be removed from the welfare system entirely because they're unable to work — that's the language in the CSR — thus distinguishing them as persons more deserving of assistance than others. Those were four of the five points that were made in the Common Sense Revolution document with regard to welfare issues. The fifth one had to do with nutrition programs for children. Bill 142 is the attempt to keep faith with the CSR and to put those values into practice in legislation.

One point I want to add is that in addition to the statement I quoted from Transitions earlier, there was a consensus that emerged in the late 1980s, I would say across a broad range of society, not only those who wrote the document or those who were in the government parties at the time, that social assistance should be supportive rather than punitive. It should ensure that principles of human rights are incorporated in law — that is, there should be adequate opportunities for appeal, for transparency of information and so on; it should be a bridge to

employment and to full participation in the community; that most applicants are applicants legitimately and not fraudulently; and that the conditions not only of welfare but other programs for people in poverty have to be changed to reflect these values. What we're dealing with in Bill 142 is quite a substantial difference in philosophy from that consensus of the late 1980s and early 1990s.

I want to address a few substantive issues among the many in the bill. There are many more that I could be addressing. I wish I had the time to do so but I no longer have the liberty of doing so, being employed full-time in another job. Transparency is the first issue I want to address. I accept the view expressed by governments of all stripes and people on all sides that regulations are an integral part of any piece of legislation. But the issue isn't whether there need to be regulations; it is how much is incorporated in regulation, how much is incorporated in legislation and how much is purely discretionary and left to administrative manuals.

I would urge a reconsideration of this bill to ensure that some key issues that are left to be considered in regulation be made more transparent and be subject, therefore, to debate in the Legislature by being incorporated into the bill itself. It seems to me that too much is left to regulation and therefore to the unreviewed capacity of governments to make decisions which are fundamental to the length and breadth of the program. The program in law is at the moment a skeleton and we need more flesh on it than is available at the moment.

The second point I want to make relates to the issue of people in need. I won't go into all the historical material I've added here for your consideration related to the historical inheritance of Ontario society, which was in the British Poor Law. But I think it's important to note that in this century we did not have an obligation to provide welfare in law until into the 1930s. That's the first time an obligation to provide welfare in law appears in the province of Ontario. That's in the 1935 legislation. That legislation largely incorporated the kind of early-20th-century poor law thinking that was still prevalent at that time.

Canadian society, and indeed Ontario with it, did not depart from poor law thinking until the transformation that was brought about by the Canada assistance plan in 1966. The Canada assistance plan forced Canada and Ontario to break from that past by introducing the concept of need. It was there in the preamble of the legislation. As you're well aware, the Canada assistance plan no longer prevails as the law of the land. It was dispatched by the federal government in 1996 after a 30-year run.

In the preamble, the Canada assistance plan said that every person who is demonstrably in need shall have those needs met. It's only subsequent to having those basic survival needs met that other considerations come into play. The philosophy of the Canada assistance plan, which I would urge you to reconsider in looking at this legislation, was that people should not have obligations placed on them in exchange for the receipt of having their basic survival needs met, that the needs are met first, that

they not be obligated to trade at a point when they're extremely vulnerable, that their vulnerabilities be dealt with and then subsequently consideration be given to what additional needs they have, whether for education, training or whatever.

The Transitions report expressed that philosophy consistent with the Canada assistance plan. What concerns me in the present bill is the notion that for example there will be a tradeoff where people are obligated to accept certain types of employment which may be unsuitable to them, certain types of unsuitable training, certain types of community placements that are unsuitable to them. They are obligated to accept this as a basis for receiving assistance rather than having that consideration made on the basis of what's appropriate for them after their basic needs are met.

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A third consideration I have is the return of the categories of deserving and undeserving in the legislation. What the Canada assistance plan did was eliminate distinctions that were to be made on the basis of, effectively, moral considerations about who is deserving and who is not. What it said was: "If somebody can demonstrate that they're in need according to a needs test, then we will feel an obligation to respond to them. We will not, a priori, categorize them into who is deserving and who is undeserving according to certain moral concepts that we have and which we then incorporate into legislation." In that respect it was morally neutral.

I have a concern where we see the return of concepts of deservingness and undeservingness in the distinctions that are now being considered, for example, between those people who will operate under the obligations of the Ontario Works Act and those who will be under the Ontario disability support plan.

The fourth consideration has to do with the concept of mutuality. The province has maintained that Ontario Works is about mutual obligations, and were it completely on that level, I would have no disagreement with it. Were the obligations the same on the part of the individual as they are on the part of the state, that would represent mutuality or mutual responsibility. That isn't the way it's phrased. The obligations, it seems to me, are primarily on the part of the individual who is applying and who is vulnerable, and there are few, if any, obligations on the part of the state to provide education, for example, or to provide training.

My primary comment on programs such as Ontario Works is this: Good programs attract applicants. In the past, where we had good programs for education or training, they attracted many more people than could be accommodated. When you run a good program, people will want to take it. You don't need to obligate them to do so. They'll do it because they want to do it.

Is my time out?

The Acting Chair: Very close to it: 30 seconds.

Mr Moscovitch: I had some comments in here about assets and earned income. Undoubtedly you've heard a lot about that already, and also about housing. I'm most

concerned about the issue of housing and the potential for a lien against housing. That to me takes us way back into the beginning of the 20th century and really reverts to a much earlier philosophy. Again, in this case it wasn't only the Canada assistance plan that created this break. The philosophy in administration has been for many years now that people should not be forced to surrender their housing. This does not benefit them in any way administratively, and if you're concerned about people remaining on welfare and creating dependencies, forcing them to give up their housing is one way of creating a much longer-term dependency. It does, to me, speak of the conditions that prevailed in the 19th century which were made infamous in the work of Charles Dickens. Life wasn't nearly as nice as the Broadway musical *Oliver* portrayed it.

The Acting Chair: Thank you, professor. Your time has expired.

Mr Cullen: Do you have a copy of your brief?

Mr Moscovitch: I'll send a copy of the brief, when it's cool, to the clerk of the committee and make sure that it's distributed.

The Acting Chair: Thank you.

CAPITAL REGION CENTRE FOR THE HEARING IMPAIRED

The Acting Chair: We will go on with the Capital Region Centre for the Hearing Impaired, Louise Ford, executive director.

Ms Louise Ford: I'd like to thank the committee for the opportunity to be here this afternoon. I know there were a lot of people who wanted to speak to you and didn't have an opportunity, so I would like to express my appreciation for that.

The Capital Region Centre for the Hearing Impaired functions as a community centre for deaf, deafened and hard-of-hearing people in the Ottawa-Carleton area. As a community centre, just like other neighbourhood community centres, we cater to the needs of the people who are part of our community. Our community just happens to be spread over the whole region instead of in one neighbourhood.

One of our major concerns is the accessibility of programs to this particular group of people. The deaf people who participate in our programs are pretty well all sign language users, so we have to make sure our programs and information are all accessible in American sign language.

For our deafened users and hard-of-hearing users, we find that sign language isn't very much use to them because they are not very good with it. Instead, they need assistive listening devices, whether it's a loop system or an FM system or computerized note-taking. For example, in a session like this, if there were a deafened person who doesn't know sign language, they would not get anything out of this session at all. They would need to have someone sitting at a computer or a court recorder type of steno board with a computer screen, or in larger groups we use an overhead projector to do that. So in terms of access-

ibility, that's one area where this committee hasn't considered a particular group.

As an organization we certainly see a wide range of people, both people who are receiving social assistance and people who are not. Today, of course, we're going to focus on the people who do receive social assistance.

Yesterday I had an interesting discussion with a group of students who participate in our adult literacy program, most of whom are receiving some form of social assistance. The first thing they were most concerned about was that they didn't have a clue what this committee was doing. They didn't have a clue what Bill 142 was all about. They are in our literacy program because they don't read well. Most of them read at maybe grade 2 level. Any documentation that has been produced, whether it's from the committee or from other organizations that are trying to share information about what's going on, any of that stuff is totally inaccessible.

If you can hear and you don't read well, you can listen to television, you can listen to the radio, you can go to meetings and you can talk to people and find out or you can phone your local MPP and ask questions. For a deaf person who doesn't read well, what do they do? MPPs don't have interpreters sitting around in their offices ready to interpret a conversation. If you're deaf and you do read well, then you can use the TTY. You can type through the Bell relay service and you can get your answers that way. But that's not who is in our literacy program. The people in our literacy program can't do that. The only information they could get was what I made accessible to them in ASL.

Their question to the government is, "Why can't you make information accessible to us directly in ASL so we can understand and know what kinds of questions we need to ask and what kinds of things we need to comment on or ask for clarification on or object to if we choose to?" It's not that they don't want to participate, it's that they don't have access to participate.

Yesterday afternoon's discussion raised quite a few questions. I'm not an expert in legal stuff or in statistics or in welfare regulations. I don't have a clue what kinds of documents you have to provide. I know some things, but I wasn't able to answer very many of their questions because of the level of information I've had access to. I think many of their questions will be addressed in the regulations, but since we don't have access to the regulations at this point, the information is not out there.

I'd like to present to you their questions and concerns that they raised to me. One of their very first questions was, "Will I qualify as a person with a disability?" They looked at the three criteria and some of them said: "I don't have any trouble looking after myself in my daily needs. I can take care of my apartment, I can take care of myself. I don't have any trouble going out into the community in terms of doing my shopping or getting from my place to an appointment or coming to the literacy program. I can manage the bus system. I can do a lot of things.

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"I can't go and argue with a store clerk because I want a refund on something because I don't understand them when they write and they don't understand me. I need help to do that. Generally I can look after most of my own stuff, but I can't work because when I go to apply for a job I can't even fill out the application form. I don't understand what 'surname' means. I can't understand when the boss writes me a note and says, 'I want you to do this.' It's not that I can't physically do a job; it's that I don't have the skills to be able to function in the workplace."

When I go to work, I have access to all the information that's available because I know sign language. When the deaf people sign I know what's going on and when hearing people talk I can hear them, so I have access to lots of information. Deaf people who don't read and write well don't have access to virtually any information when they go into a workplace.

Their next big question was, "How will I get support to continue my education or training?" With VRS being shut down, they say: "I'm not ready for a job right now. I want to work. I want to have a job. I want to have money. I want to buy a car maybe, do all the things that people who have jobs do. I don't have any skills to offer an employer."

"I ask about a training program and what do they tell me? 'There's no money for interpreters,' or, 'Here's a test.' I can't pass the test, so I can't even get into the training program. If I could pass the test and get in, there's no money for interpreters."

"If I want to go and volunteer on a work placement, for example, through Ontario Works, maybe I go and talk to an employer or someone goes on my behalf and negotiates something that I can participate in. I don't have enough money to go and buy one of those fancy vibrating or flashing alarm clocks so I can even get up on time to get there. Who is going to pay for my alarm clock? When I get to the job site I can't make a phone call. I can't phone home to tell my spouse or my roommate that I'm going to be late because I'm working on a project and I won't be finished until 4:30, because they don't have a TTY. A TTY costs money. Who is going to pay for that TTY?"

"What if there's a fire alarm? Suppose I'm working here at the Delta Hotel learning how to be a bus boy and there's a fire alarm. How do I know there's a fire alarm? I'm going to the bathroom, I'm in the bathroom all by myself, in my little cubicle, there's nobody else around. If I were in this room, I'd see everybody else jump up and run out. I might figure out there's something going on. But if I'm cleaning up after a banquet and there are maybe two of us in the room, how do I know there's a fire alarm?"

There are systems that can help with either flashing lights or vibrating like a pager, but again those cost money and there isn't a bank of loaners that could go out to employers that would support a deaf person working someplace on a temporary basis to learn a job or even on a placement to see if they might get hired. The students tell me there's not even any money to help pay for bus passes for them to come to the literacy program at the centre.

They also wanted you to know that it's important to remember that it takes a long time to learn how to read and write. If you're starting from maybe a grade 2 level and you don't hear, it's very difficult work learning how to read and write because you don't get the reinforcement every day of hearing stuff. They do have captioned television, but because they don't hear what people are saying, all they see is a bunch of words on the screen. It would be like me trying to learn German from just watching captions on the television and not having access to interactions with people in that language.

One of their concerns about the Ontario Works system is that it's not going to allow them enough time to develop the skills they need. Some of them have expressed concerns about: "Will they cut me off if I've done my 18 months?" or whatever the time thing is, "Will I get cut off because I'm still not ready for a job? I want to have a job, but I don't want someone to cut me off because it's taking me longer than somebody else to get there."

Another question was about support as a deaf single mother. She told me she can't figure out what's going to happen. She doesn't have the information she needs to plan ahead, to figure out what's going to happen to her and how she can take advantage of training opportunities that are out there. She desperately wants to work, and with appropriate supports and training she will work, and then she'll be paying taxes just like most of us pay taxes.

Related to the access to information, they were also concerned about, "When the regulations do come out, how will I understand what they're all about so that I know ahead of time what's going to happen, so I'll know that these are the rules and I won't break them if I don't have to? If I can manage things so that I follow the rules, then I want to follow the rules."

They wanted more information about Ontario Works and how they could participate, who is going to pay for the interpreting and support services they need, but they also wanted to know where they'd find the supports they need in the community. For example, right now they get some support from us at the centre. We have a literacy program and we provide some additional supports, but we're not funded to do those kinds of things and we can only do so much. The Canadian Hearing Society also provides some supports; they provide some counselling and other supports like that. But neither the Canadian Hearing Society or CRCHI has funds to provide direct employment training or pre-employment training.

Some of them who wear hearing aids and use them to alert them to noises around them wanted to know more about the health benefits. Some of them who are receiving general welfare assistance have had difficulty getting funding for a new hearing aid, a replacement hearing aid, whereas some of our students who have been on family benefits haven't had as much difficulty getting that kind of support. They're somewhat confused about, "How come I'm having trouble and she's not?" and, "Who is going to pay for the hearing aid batteries?" Batteries cost money and they have to be replaced on a fairly regular basis.

I think it's important to consider that there are extra expenses incurred for people who are deaf or hard of hearing who need different assistive devices. Things just tend to cost more. One of our paid staff members, not on social assistance, is looking into things like setting up an RSP. She wants to set up an RSP. There isn't any funding to pay for the interpreter for her to go and talk to a financial planner about setting up an RSP. She has to pay the interpreter. That's probably going to cost her between \$60 and \$80 for the initial meeting with the financial planner, which I don't have to pay for. I can meet with any number of financial planners and I don't have to pay anything.

There are things that occur in a deaf person's life, whether they're on social assistance or not, where the costs for interpreting are not going to be covered. Certainly if you're receiving social assistance, you don't have the money in your pocket to be able to pay \$60 or \$80 any time you need an interpreter.

The last concern I'd like to raise with you from them is that they're worried about someone taking over their money and their not being able to communicate with that person. If the person doesn't know sign language, how can you talk to them and how can you discuss, "How come this much of my money goes here?" or just be able to understand what's going on? How would they get control of their money back if they were to learn the skills? It may be that they just don't know how to manage it, which is possible, but if they were to learn the skills to be able to do it, how would they get it back?

On the last page of the handout that I gave you there are concerns that are more from an organizational perspective and I believe they're quite similar to concerns that have been raised by other groups in presentations, so I'm not going to repeat them. I think you can probably figure out what they are.

The Acting Chair: Thank you for respecting your 20 minutes. Time has expired. Thank you for your presentation.

1640

RENFREW COUNTY COALITION AGAINST POVERTY

The Acting Chair: The next group to appear before us is the Renfrew County Coalition Against Poverty: Pam Gray, Francine Trudel and Donovan Parkinson.

Mrs Papatello: Chair, while they're getting prepared, may I submit officially — and hopefully committee members can access copies of it; it has been submitted to the clerk's office. These two people travelled to be here today — and unfortunately the list may or may not let them on — in case someone won't be here. One is Kathryn Hall, who came down from Perth, and the other is Barbara McLean from Bancroft. They identify the Bill 142 effects regarding people with environmental sensitivities, also known as multiple chemical sensitivities or

environmental illness, which is certainly of particular interest to people who have this.

The Acting Chair: Very good. You may proceed any time. Would you please identify yourselves for Hansard?

Ms Pam Gray: My name is Pam Gray. To my left is Donovan Parkinson; to my right is Francine Trudel.

I am speaking on behalf of the Renfrew County Coalition Against Poverty. We are a grass-roots group of concerned citizens who came together in September of this year in response to Bill 142. Our members include single parents, people with disabilities and other people who are existing on social assistance, as well as concerned community members not currently receiving assistance. Donovan will be speaking about the tone of the proposed legislation, Francine will be speaking about the proposed liens on homes and I will be speaking about mandatory workfare.

Mr Donovan Parkinson: I'm here to address the tone of the legislation, but before I do that I would like to make it clear that we are all taxpayers. We pay taxes on our property. The rent we pay includes taxes paid by our landlord. We pay taxes on virtually all our purchases. We pay taxes on earned income and on much of our other income. There are not two kinds of Ontarians, those who pay taxes and those who don't. We are all taxpayers.

Renfrew is a large rural county. Our largest city is Pembroke, population approximately 13,000. This city is the only place in the entire county with public transportation. Our economy is mainly based on tourism, agriculture, forestry. The recent recession hit us hard and we still have unemployment rates that are estimated officially at around 12% and unofficially at 18%.

Our members and other low-income people throughout Ontario welcome any meaningful programs and other assistance that will help them pull themselves out of poverty and improve their lives and the lives of their families. We believe this legislation as it is written now will not do this and will accomplish the complete opposite of what the government has said it wants to do.

We are glad to have the opportunity to voice our concerns to the committee. However, we believe it would have been more appropriate for Minister Ecker to have had full consultations with low-income people before and as this legislation was being designed, and certainly before the legislation had reached this stage.

Now the tone of the legislation: Not only the tone but the substance of the legislation is punitive, repressive, demeaning and a whole bunch of other adjectives which you've probably heard already during the hearings. This legislation punishes us for being poor. It strips us of our human rights and uses our basic income support as a weapon against us. The legislation treats us like criminals, computer finger-scanning us and creating special welfare cops. We are presumed guilty until we can prove ourselves innocent.

Here's Francine with a very relevant personal story to illustrate this. It is a recent experience under the current legislation and we believe that Bill 142 will increase the frequency of this kind of situation.

Ms Francine Trudel: I am a single mother with two small children on family benefits. I am working part-time and I knew that I had to send in my reporting cards by the 7th of the month in order to receive my cheque at the end of the month. The reporting cards report my earnings and I did this faithfully.

One month, I only had one pay stub because I only worked one of the two pay periods in the month. I sent in the pay stub. The next month, June, I didn't work at all; therefore I didn't have an income to report. Two days before the end of the month, when my benefit cheque was due to come in, I got a letter saying I was suspended "due to failure to provide information."

Believing that I had done everything that was required, I assumed my worker had made a mistake. I called my worker immediately, the same day I received the letter. I got through to the receptionist because no one else was available. I was informed I should have filled in a reporting card for June and to come in and fill one in. I had to fill one in saying I had made nothing. I did that, driving the hour trip from my home to the office.

The next day, my worker called me. I was told I was still missing a pay stub. They went through my pay stubs on the phone. My worker told me everything seemed to be fine and to come back and pick up my cheque the next day. When I went into the office, I was told I couldn't get it because the computer wouldn't release it. I was told again that they would have to look into it. The area director himself had to issue it. I got it the next day.

Not one person even said that they were sorry for the stress or the three trips to Pembroke or the late payments I had to pay. I have since learned that they have changed the reporting requirements and I was one of the first to get hit. A simple phone call would have sufficed to get the information they needed and would have prevented this whole dilemma, but my worker told me they did not have the time to call. They'd rather send me a letter saying I'm suspended.

Mr Parkinson: The main point here is that she was presumed guilty of cheating until she could prove her innocence. There are hundreds of stories like this where welfare workers demonstrate no respect or accountability except to their bosses. I myself have experienced sarcasm and attempts at intimidation across the desk from a welfare worker.

Clients are told to provide various documents and information. Some of these documents are irrelevant and some are so difficult to get, due to barriers not considered by welfare workers, and obtaining some documents gives an added cost that the client often cannot pay. Clients are often treated like bad people. They do not need to be treated like they are trying to defraud the system. The poor are not bad, they are just poor. It needs to be clear in the legislation that the standards required of welfare workers include an obligation to counsel and assist people in need and also to behave compassionately.

If the government implements this legislation, we are convinced that in a short time we'll see great hardship in Ontario. I believe we will see it in the streets, in the

hospitals and in the courts. We believe that people like Minister Ecker, who design these laws and regulations, truly have no idea of the real impact on people. We hope that she's listening today. We'd like to tell her everything we're concerned about in this legislation but obviously there's not enough time, so we'll confine ourselves to a couple of issues.

Here is Francine again to speak about one of those issues, liens on homes.

1650

Ms Trudel: I would like to address the proposal to change our social assistance system into a loans system. Recipients of social assistance pay into the system as taxpayers before, during and after we receive social assistance. We come on to assistance because of unemployment or other personal crises we can't prevent. Under Bill 142, we will now have to pay back the social assistance we receive. By making family benefits and welfare into a loan, it traps people into poverty — generational poverty. By putting liens on people's homes, it will in effect force us to sell our homes when the mortgage is renewed.

I am in the position of losing my family's home. I bought our home with money I earned working for the 13 years prior to when I needed family benefits. I finished a contract position and was laid off prior to going on maternity and parental leave. During that year I separated from my partner and father of my twin girls. During this year, the union was organized and when I applied for another position I was turned away because I no longer had the right qualifications.

So I found myself raising my girls alone on family benefits. I have been on family benefits for four years now. My twin girls are five years old and are going to school full-time and I am able to work towards full-time employment. I have worked part-time for the past year and continue this work now. I am now volunteering three days a week at the Action Centre in Eganville, giving my skills and experiences back to the community. I am struggling to make ends meet, raise my children and maintain an old home and car. Bill 142 would add to this by putting a lien on my home.

I receive \$1,085 per month to support me and my children. This amount will now be added to the lien every month. I renew my mortgage every year, and have to discharge all the liens before I can renew. Even if the mortgage company paid off the lien for the first year, by the second year there will not be enough equity left. I will have to sell our home. I would lose all of my life's work and savings.

Losing my home will not make me more self-reliant. I and my two girls will be forced into poverty even deeper just as I am working as hard as I can to become self-reliant. It's a lose-lose situation where I'm going to lose it all. Under this system, the government would be taking away our home, our shelter. We will have to rent. The government seems to prefer to pay a landlord more for my shelter than to allow me to continue to pay my mortgage. This is cruel and unusual punishment for being a recipient of a social assistance program, a program which is said to

help me. The system is being used against me and my children.

I am not only concerned for myself, but for all the people who may lose their homes under this plan, not only people who are on social assistance full-time, but others who are receiving assistance as a top-up. Many women separating get their house as part of the settlement and to help them and their children get a new start; also the elderly and the disabled.

I am afraid for the future of my children. We are trying to break away from this poverty. Losing our home and having to pay back any other benefits the house didn't cover would ensure they will never have a chance. With a lien system, social assistance will be no more. It will be a loan system, taking from the poor to benefit the rich.

Mr Parkinson: Here is Pam to speak about mandatory workfare.

Ms Gray: Workfare. Why does it have to be mandatory? I am a single parent. I have been working at three jobs part-time for the past year and a half, but even together they are not enough to support my two sons and myself. I also get a top-up from family benefits. My youngest son is now five years old. Since I did not want to be on mother's allowance for the rest of my life, in the fall of 1994 I chose to go back to college and get a diploma so that I could become more employable and eventually get off the system altogether.

While I pursued this goal I needed the system to ensure that my monthly expenses and necessities were covered while I had to travel daily, five days weekly, to college. That trip was two hours each day. During that time I was under tremendous personal pressure, juggling school work, child care responsibilities and home and car upkeep. Added in to my own physical health issues, my youngest son broke his leg. I had to spend time between CHEO in Ottawa, my other child in Renfrew and finishing the last semester of my classes in Pembroke.

I finished classes and graduated with honours in the spring of 1996. I found employment immediately working at a minimum wage job in my field which lasted for four weeks. After that I applied for and was hired for two more jobs in my field where I work as a supply support worker, working only when full-time workers are off sick or on vacation. I am still on the system and continue to need it until I am able to gain full-time employment, for which I continue to submit résumés.

I need the system to continue to provide my family with the necessities of life until I am able to gain that full-time working status I have struggled to acquire. I do not need the system to motivate me. I do not need the system to show me how to become more employable; I have done that. I especially do not need the system to put me in the position that a welfare worker could cut off my benefits because she thought I should change my career direction or for any other reason. What I need is a full-time job, and income support until I get it.

There are many of us in my situation. I have spoken with many people on assistance personally, in both my personal and my professional life. People on assistance

don't lack motivation; they lack jobs. They will take any course or program offered that they think will actually enhance their employability, and they will do it voluntarily. They do not need to have the threat hanging over their head that they will lose their benefits for three months or six months.

You may ask, what difference does it make, since we are already doing this voluntarily? The difference is that Bill 142 gives all the power to welfare workers to decide what people have to do to satisfy their Ontario Works requirements. If we disagree and refuse to do something, they can cancel our benefits. Three months without benefits will mean they will lose their homes, they will eat at food banks and live in shelters, their children will go hungry and they will not get jobs.

Right now, Bill 142 makes taking part in Ontario Works absolutely mandatory; there are no excuses. Even putting in a list of reasons when people should be excused from their obligation would force, or allow, their workers to look at each situation with a view to the reality of people's lives. Such a list would include child care responsibilities, illness, transportation problems, which Renfrew county has, that prevent participation but don't make the person disabled enough for the new disability program. The list cannot be closed because there will be situations we can't think of now. There must be flexibility and compassion built in. Thank you.

The Acting Chair: Thank you for your presentation. I will permit one question per caucus, but please cut the preamble and get to the question. Mr Kormos.

Mr Kormos: Well, Chair. Thank you kindly, all of you. About the workfare, it was brought to my attention today — can you believe this? The government slashes social assistance benefits by 21.6%; gives MPPs a 40% salary increase; pays out \$109 million in a pension plan buyout, making Mike Harris, among others, a millionaire; and Glen Wright, the Tory appointee as the head of the WCB, blows 70 grand redecorating his office, and we're telling these folks that they should pull themselves up by their bootstraps and just work a little harder, comply a little more with the rules and regulations and they'll be just fine. Horse crap.

1700

The Acting Chair: We'll go on with the government members.

Mr Carroll: Thank you very much for coming and sharing your stories with us today. We don't have any magic wands to wave. I don't have anything that makes the situation any better, yet both of you are out trying to do all you can to help yourselves.

Ms Gray: We aren't asking for magic; we're asking for compassion.

Mr Carroll: But the workfare program, as we are designing it, is designed to do exactly what you are doing.

Mr Parkinson: There are solutions, but you just don't see them.

Mr Carroll: The welfare workers will be completely at liberty to accept your choice of the kind of activity you want to participate in. They won't say what you're doing

isn't acceptable. There is no, "You have to do this." If you have found some employment to help you, that will be totally acceptable. I compliment the two of you —

Mr Parkinson: Three of us.

Mr Carroll: — for doing all you can to help yourselves. The ultimate thing is we need to create jobs. We understand that as a government. That is our number one priority, to create some full-time jobs, so you can go and get full-time work.

Mrs Pupatello: I don't know how comfortable those comments from the PA make you feel. It is just as frustrating to listen to and hear. I feel guilty, frankly, as a member of the government, even though I'm in opposition, to have to listen to real-life stories, that we actually have to put people in front of us to say, "Look how bad things are."

It's a whole shift in attitude in how we treat our disabled, those who are having financial difficulties, to say, "How bad is it?" It used to be, "What are the abilities of this child?" Now it's, "How bad is the disability?" That's the shift in attitude that we've dealt with, and we've seen that change in regulation. They didn't need Bill 142 to make some massive changes for people receiving assistance.

I'm astounded that you had the courage to come and speak to us, because it really does take an awful lot of courage, and we thank you for that. I apologize that we can't get a better answer out of the parliamentary assistant. I hope in a couple of years we'll have a much better answer.

The Acting Chair: There is no question. Thank you for your presentation.

OTTAWA-CARLETON CUPE DISTRICT COUNCIL

The Acting Chair: Now I'd like to call upon the Ottawa-Carleton CUPE District Council, Steve Sanderson, president.

Mr Steve Sanderson: I'm the president of the Ottawa-Carleton CUPE District Council, representing 6,000 affiliated members in locals throughout this region. The membership of these locals work in hospitals, universities, school boards, municipalities, health care services and a variety of community and social services. The breadth of experience of these members and their commitment to the concept of justice, fairness and equality for all people have us joining many individuals and organizations that oppose Bill 142.

I'm also the president of CUPE Local 1521, which represents the workers at the Ottawa-Carleton Association for Persons with Developmental Disabilities. OCAPDD is the largest service provider in the Ottawa-Carleton region for persons with developmental disabilities, employing 200 full-time and 100 part-time and relief staff, offering services to some 900 individuals and families in this community through its residential services, day programs, respite care and community services.

I personally am employed in the supported work program, which assists developmentally handicapped individuals to gain employment in integrated settings throughout the region. In that capacity I've already experienced the underbelly of the business transformation project's early opportunities initiatives.

Having worked with and for handicapped people in this region for the last 14 years, I am sickened by the attitude towards the disabled that is being promulgated by this bill, and the cavalier attitude of bureaucrats who fabricate these acts, who ignore or are forced to and are purposely ignoring the day-to-day reality of the disabled members of our community.

Finally, as a citizen who takes the responsibility seriously, I'm completely disgusted with a government that could continuously ramrod through one piece of legislation after another, limiting debate in the Legislature without proper and extensive hearings throughout the province and that only releases the regulations to the act after limited hearings have taken place. This is a shameful and reprehensible way for a government to govern. In effect, it is the way a government governs if it only does so for some of the citizens versus all of the citizens.

At the Conservatives' policy convention held in London this last week, Mike Harris said, and I quote: "Courage and power are very different. You have to find courage to actually do what's right. The true test of courage is courage under fire. I want to say I believe it is a test that we have passed every single day since June 8, 1995." Let's look at Mr Harris's courage and the courage of the heroes, as he calls his party, his caucus and his cabinet. Here are some of the examples of the results of these courageous deeds.

October 9, Toronto Star, a report on homelessness to the Metro council: 5,300 homeless people jam Metro hostels, up 1,380 from last year at this time, with an estimate of another 1,210 as winter arrives, for an increase of 67% over last year. The report states: "These needs are fuelled by declining vacancy levels, social assistance rate reductions and a growing number of evictions of families headed by single mothers."

Next example of courage: The Canadian Association of Food Banks released a report on October 8 of this year. The report indicated that food bank usage has doubled over the last eight years. In Ontario food banks assisted 285,000 people and 75,681 families. That group was comprised of 99,315 adults and 72,173 children. I quote:

"For the country as a whole and all the provinces, children under 18 years of age represented 41.9% of all people assisted in hamper programs, even though only about 25% of the Canadian population is less than 18 years of age. Clearly these trends represent a serious deterioration of household food security in Canada and it is certainly not accidental that this worsening situation coincided with a regime of high unemployment coupled with federal and provincial cuts to social programs."

October 18, 1997, Ottawa Citizen headline, "Ontario Plans Workfare for Recipients over 60 Years of Age." "Although the present population will be grandparented,

any new additions to the over-60 group will see benefits drop from a current maximum of \$930 to \$520, for a loss of \$410 per month."

In the article Barbara Lajeunesse, who is the director of the Olde Forge Seniors Support Service, states: "It will be devastating. I think we'll end up with more suicides." George Latour, the president of the Ottawa-Carleton Council on Aging, also stated: "It's going to put some people really in jeopardy. It seems strange to me to try to put them to work at a time when people are being retired early and unemployment is high." Finally, in the same article, Mr Harris himself was referred to on comments he had made about workfare, stating that it would give people work experience and contacts and improve their work ethic, at 60 years of age and older.

These are just a few of the numerous acts of courage that we see in our communities every day as a result of the actions of these heroes in the Harris government. Of course, these acts of courage do not go unrewarded. As every ministry cuts services and budgets, deputy ministers will now receive up to 20% of their base salary in bonuses. In that most deputy ministers make \$143,650, they will be eligible for bonuses of up to \$28,730. This is the new Robin Hood anti-hero who robs from the poor and gives to the rich, better known as Corp Ontario.

1710

Over the last six days in preparation for this presentation I've read articles, briefs, editorials, newspaper articles, research documents from the disabled persons' community resources, the consumer advisory council of the Royal Ottawa Hospital, the consumer advisory council of the Rehabilitation Centre, Low Income Families Together, the Canadian Association of Food Banks, the report on homelessness to the Metro Toronto council, the CUPE Ontario and the OFL presentations to the standing committee on social development, and numerous pieces on particular aspects of this bill from the Social Justice Coalition and the Ontario Social Safety Network.

None of these groups, in any of the material that I laboured over day after day, had any trust in the intentions of this government related to this bill. In effect, all felt that this was nothing more than poor-bashing in the most heavy-handed, brown-shirted incarnation. Further to this they feel, even as they compile substantial evidence that confirms their assertions, that nobody in the government is listening or even wants to listen.

When Mike Harris was asked more recently what he thought of the Day of Action in Windsor he said, "My own view is that we respond far better to constructive dialogue on how we can make things change." If this is not just more ideological windbagging, then Mr Harris should start listening to the people of this province on the impact of this present Bill 142 and alter it in the most substantial fashion so that 1.1 million or so individuals in this province that receive social assistance will not be put at considerable risk.

Mr Harris says he tells it as it is. Well, I want the Conservative members of this committee to tell Mr Harris that I challenge him to do what he says and open up an

extended dialogue on the bill with the people who really know what it means in human costs and suffering. If he's the leader he says he is, he will have no choice but to listen so he can learn.

On the specific matter I mentioned earlier in this report on the issue of Andersen Consulting through the business transformation project, I want to make the following comments. The BTP project, as is it known, is aimed at reducing the number of people on welfare and reducing benefits to recipients, including altering the definition of "disability" to further disable these citizens.

In the terms of agreement to the project this is made quite clear. "Andersen and the ministry are paid only out of savings generated as a result of work." The report goes on to talk about: "Early opportunities to generate savings: One of these relates to the change and the reporting function related to how individuals receive their social assistance cheques. This system is what is known as automated decision-making. The card goes in, it is processed centrally in Toronto, the cheques come back and are dispersed."

Now, because most of the individuals served by the agency that I work for cannot read or write, the staff in the program have to help them fill in what's called their ETIR cards, which are employment training and income reports. This is done on a monthly basis. We also deliver these cards on the 7th of each month to the offices in town here so that they will not miss their cutoff date, and we always have the cards in on time.

Somehow, some of these cards were not automated properly and, as a result of that, one of our clients received the following letter. Please remember, most clients in the associations, and most associations for persons with developmental disabilities, cannot read or write. I've gained permission from this individual to read this letter. I'm not going to say her name but I'd like to read the letter. Remember she cannot read or write.

"This is in reference to the allowance you received under family benefits. I regret to advise you that it is my intention to suspend your allowance and benefits, effective August 1, 1997, and cancel your allowance and benefits, effective August 1, 1997, as I have not received verifications of your earnings training allowance for the period of July 1, 1997, to July 31, 1997, and I am unable to determine your continued eligibility.

"If you disagree with my decision, or if you have additional information to submit, you may appeal directly to my office by writing to the above address within 10 days of your receiving this letter. If I do not hear from you, I will confirm my decision in writing at a later date."

This person brought the letter into us not knowing what it meant. What if we weren't there to help her? What would she have done that month to pay for her rent, for her food, for her transportation and all the other things? This person also lives with an extremely aged mother. What would have happened if they were evicted or were threatened with eviction from the place they live in and, if we were not there, who would have known? How many

other similar letters may have been sent out because of bureaucratic bungling through this province?

Is this the way that the early opportunities work? As more welfare workers lose their jobs, and they will, and social services workers lose their jobs, and they will, how many more handicapped individuals will lose their benefits, receive diminished benefits or be subjugated to unnecessary harassment around their claims with no one to defend them? These incidents will happen over and over again but no one cares because the purpose of the transformation is to cut costs, not to serve people in need.

The handicapped community will be under assault. Under the MCSS Making Services Work for People document that outlines the restructuring goals, there is no mention of supported work programs because they will be done away with and become a part of Ontario Works. Anyone who has any knowledge of developmental disability knows that this will not work and will seriously jeopardize the future of many disabled persons in this community.

Having said this, I want to make the following recommendations on the bill itself and on specific aspects of it that I have concentrated on today.

That all programs be voluntary in nature; for example, Opportunity Planning, which worked so well in this community, will not be able to be in place.

That single parents in particular with children who are school age not be subjected to any mandatory work program, thus affording further negative impact on their children. There has been a 50% increase in child poverty in Canada since 1989.

That regulated quality child care be made available to any person receiving assistance prior to their having to commit to a program. At present in Toronto alone there are 8,500 parents on social assistance who are waiting on a list for regulated quality child care.

That seniors who enter the 60 to 64 age range continue to receive the higher rate of social assistance and not be forced to join workfare; that their dignity and a decent retirement income be available to them.

That the redefining of disability be much more objective and realistic and allay the people's needs so that a large segment of the disabled population not be further compromised in their ability to survive in this community.

That the regulations that enable the bill be brought forward so that they can be reviewed by the committee and through public hearings.

That the process of hearings be expanded, ensuring that all regions are incorporated in this process; that the reasonable notice of the meeting date be given, so that all concerned parties can participate; and that the committee, particularly the Conservative Party members, listen to the expressed concerns.

That Bill 142 not be exempt from existing legislation such as human rights and employment standards; that recipients have a right to an advocate in either internal or tribunal hearings; and that tribunals not be able to refuse to process an appeal because they consider it frivolous.

That no participant displace a paid employee or perform work that was done by a paid employee.

That social assistance should never be privatized and that the contract with Andersen Consulting be rescinded. This is already contemplated in the contract between the government and Andersen Consulting, by the way.

Finally, that the government create a bill where all recipients are treated with respect and dignity and where service provision overrides any other concern including savings.

The Acting Chair: Thank you for your presentation. Again, members, there are only four minutes left and I'll permit a question. I know you'll take it but you usually take more than four minutes. One question.

Mr Klees: I'll take it.

Mr Kormos: We'll give our time to Mr Klees.

Mr Klees: Thank you for your presentation. You've done extensive research on this. Unfortunately, one of the articles that you didn't come across or you didn't include in your presentation was one in which the president of the CUPE local for York region publicly stated his support for the Ontario Works program.

What is unique about that approach is that as the president of the CUPE local, he recognized in the bill the intent to help people and, rather than take a very negative approach, became part of a committee that worked with the region, with the government, to ensure that the Ontario Works program that was implemented in York region would have all of the elements that should be there to help people. I'm wondering —

The Acting Chair: Is there a question?

Mr Klees: Yes, my question is just on the tip of my tongue.

The Acting Chair: Please, because I'll be forced to cut you off.

1720

Mr Klees: I'm wondering if you would be willing to do as Mr Brad Black did in York region, to work with the region to ensure that workfare, that the Ontario Works program would work here for the people it's designed to help.

Mr Sanderson: I know Mr Brad Black. I know he is opposed to workfare. I do not agree with him. I have been working on committees for the last 10 years for people with disabilities, around income support and trying to develop jobs in this community, and let me assure you that the things I see in this bill are not the things that will help people in any way. They will restrict individuals. They will hamper them. They will disable them. They will render them impotent.

The Acting Chair: Thank you. Mr Cullen, please.

Interjection.

Mr Sanderson: I have worked and I continue to work towards it. What I'm doing today is working towards changing it.

Mr Cullen: As Mr Sanderson knows, this region opposed the concept of workfare. I just want to take advantage of your 14 years' experience, I think you said, dealing with the developmentally handicapped. I would

like to know in the definition of the bill what changes will happen to your clientele. What are the problems in the bill in terms of the definition of disability, for example, that might affect your clientele?

Mr Sanderson: The way I see what the bill is saying is that people have to be extremely handicapped, handicapped to the point that their day-to-day activities will be impaired, that they will need assistance and support in all those ways. That is such a great level or degree of handicap that many of the people I work with, whom I know, will therefore not be seen as handicapped any more, and they are truly handicapped in many, many ways.

Because somebody doesn't need physical assistance and support doesn't mean that they don't have a multiplicity of other needs to be met, that they can't be taken advantage of in the community, that they know how to budget, that they can read and write and so on. There are a number of areas, and the support programs we have in the agency I work with obviously are there with those specific purposes in mind to help people, and if we weren't there, I can assure you they would be falling by the wayside very easily.

The degree to which the government wants to define the word "handicapped" is very frightening because it's so restrictive, even in our community, and I would say it's deemed to be one of the more disabled communities. If those people are not deemed to be handicapped, how many other people will actually be deemed to be handicapped under this new legislation?

The Acting Chair: Mr Lessard.

Mr Lessard: We were giving up our time to Mr Klees, and he used it all too.

The Acting Chair: Is there something going on between the Tories and the NDP that we don't know? Thank you for your presentation, Mr Sanderson.

CANADIAN NATIONAL INSTITUTE FOR THE BLIND

The Acting Chair: At this time I'd like to call upon the Canadian National Institute for the Blind — I might murder this name — Mr Vangelis Nikias and Carmen Tumak, executive assistant.

Mr Vangelis Nikias: Thank you very much. You did great with my name. It's probably Greek to you. It's Greek to me too, but it works.

Thank you very much for the opportunity for us to appear before the committee today. I am here with my colleague Carmen Tumak, and we have prepared a written brief which outlines our views on the proposed legislation, both the strengths of the proposed legislation and some of the concerns we have. We have provided you with written copies of that brief, and I believe it has been distributed.

What I would like to do is quickly outline some of the main points that relate to people who are blind and visually impaired and then perhaps allow some time for some dialogue, as I think some of the issues that we have

touched upon may require further clarification and dialogue might help with that.

Along with this point, I would like to say that the first point I would like to make, our first recommendation, is that your committee should recommend to the Ministry of Community and Social Services that there be further consultation between the ministry and persons and organizations who will be directly affected by the implementation of this legislation.

There is no question that there have been calls over the last 20 years, and perhaps more, to reform the social assistance system in Ontario. These calls have come from recipients of social assistance, from experts, from political leaders and in fact from the public. There is no question that the proposed reform goes very far, further than anything we have attempted in recent history, but its implications are not clear to us. Perhaps it will take time and implementation for the implications to be fully assessed. Nevertheless, there are some points that we think can be discussed immediately, and we would like to do that.

From the point of view of persons with disabilities generally, and in particular of blind and visually impaired persons, the enactment of the Ontario disability support program generally is a positive step. There has been consensus in the community — and I have cited the Thomson report, *Transitions*, which was issued back in the late 1980s and which received support by the community as a whole and indeed the agreement of all three political parties which were represented in the Ontario Legislature at the time.

The other positive step that we see in the proposed legislation is the removal of the category "permanently unemployable person," and we have in the written brief provided details of why we think that this development is a positive one.

With respect to blind people, the removal of the permanently unemployable category does not have any positive significance because, under the Family Benefits Act, blind people receive assistance under a different definition, the definition of "blind person." In fact, one of the major problems with the proposed legislation as we see it is the removal of the definition of "blind person" and the inclusion of blind persons under the category of "disabled person." Again, we have provided details of why that is a problem, but perhaps I can touch on a couple of points.

The proposed definition of "disabled person" generally, I think, raises the threshold of eligibility, and in that sense it's going to affect adversely most disabled people, including blind and visually impaired people. It also introduces a greater degree of subjectivity into the decision-making process when compared with the existing situation under the definition of "blind person," because the definition of "blind person" is more objectively determined. It's really a measurement of visual acuity. Repealing that definition and including blind people under the general definition of "disabled person" is going to have an adverse effect.

The definition of "disabled person," as I said, I think raises the threshold of eligibility and in that sense creates a problem which may cancel out the benefits which the employment supports part of the Ontario disability support program creates. The committee should look carefully at the definition, which I think is overly harsh and difficult for many people to meet. For blind people, for example, it imposes a requirement of daily living.

1730

The fact of the matter is that the problem most blind people have is that they are receiving social assistance because they have not been able to participate effectively in the labour market, and the fact that they have not been able to do so has very little to do with their blindness or their visual impairment and a great deal to do with the fact that there are barriers in society, and in particular in the labour market, which have prevented many blind people from becoming self-reliant.

The test of daily living activities, as I said, does not really adversely affect blind people, because this phrase has been interpreted in the past to include things like dressing yourself, putting on your shoes, showering and things like. Most blind people don't have those difficulties and they will not have those difficulties. Their problem is one of social barriers, not so much one of personal care, although I recognize that for people experiencing different disabilities this is an issue.

We are therefore asking the committee to either include the existing definition of "blind person" under the Family Benefits Act into the new legislation or to urge the minister to reinstate the definition under the regulations of the new act. I will be happy to clarify some of these points later.

There are some other problems which will negatively affect social assistance recipients, including blind and visually impaired persons. One of them has to do with the imposition of a lien against a principal residence. Under the present system, the principal residence of a recipient or an applicant is not taken into account; second and third properties, of course, are taken into account. I think it would be appropriate to consider a lien for second or third properties. But to place a lien against a principal residence, in our view, is unduly harsh. It really undermines the values and the principles of the Canadian social safety net. It's also not subject to appeal, which is, in our view again, a regressive development.

Direct payments to third parties: Probably that has been put in there to address some serious problems. The difficulty is that it's not subject to an appeal. In effect, in some situations it may give the opportunity to third parties to abuse this process; for example, you can imagine a landlord claiming that they are owed rent. That may be a legitimate claim or it may not be in some cases. The difficulty is that the recipient will not have any way of dealing with that since this is not subject to appeal. I think the appeal should be reinstated in this case.

The same applies with appointing someone to act on behalf of someone else. People should have the right to appeal those decisions. It's fundamental to our society to

have a sense of fairness, to have a sense of independence and individual responsibility that some of these basic decisions can be disputed. I can assure you that there will often be grounds when the recipients will have to dispute some of these decisions.

The issue of privatization: Obviously it's a very serious matter. It doesn't mean it will result, if it happens, in better services or more efficient services. An argument could be made that it may result in less resources put into the hands of the recipients. It's something that the committee should debate and consider very seriously before we embark on this development.

Some of these issues are very serious and require careful consideration. Therefore, we would ask that, in addition to making suggestions and recommendations aimed at improving the proposed legislation, the committee should also strongly urge the Minister of Community and Social Services to engage in a genuine, detailed dialogue with those who are affected, so that some of these problems can be dealt with before they are implemented. I will be happy to try to answer some of your questions.

The Acting Chair: I'll accept one question from the Liberals.

Mr Cullen: My name is Alex Cullen. I'm the member of provincial Parliament for Ottawa West. I'd like to thank you for your presentation. I just want to pick up on the issue of treatment of appeals and the issue of notice. You were just talking about how regressive the system being proposed here is.

I just want to test a scenario on you: Here is a landlord who, for some reason, wants the guarantee of the income coming in for rent, and then goes and speaks directly to the social assistance officer who then makes a decision — there's no requirement for the social assistance recipient to know that the landlord approached the social assistance officer — that a significant portion of the cheque goes over to the landlord — and, again, there's no requirement to let the recipient know — and the recipient has to wake up and find out at the next cheque that this indeed has happened and doesn't like it, but there is no appeal. Is this a progressive system? Does this sound progressive to you or helpful to your community?

Mr Nikias: It may be a leading question, but it seems to me that it's a question that arises from the submission that we have made, and in that sense I think it's a legitimate question. I also don't need leading questions to deal with real issues concerning disabled people.

Mr Cullen: Well, one real issue — I'm sorry.

Mr Nikias: With all due respect to the government members, the scenario that the questioner described is a very real one. All decent Canadians would not want to have a social assistance recipient, who is in a vulnerable situation in the first place, being bullied by a landlord or a storekeeper or any other third party.

In some cases, some of these claims may be legitimate; I don't dispute that. But in those cases in which they are not, the recipient — the disabled person, or another recipient more generally — should have the option to

contest that, and the way to do that is the appeal. It goes to the heart of our system. Nobody's found guilty without having a day in court. In effect I suggest to you that denying the right to appeal in the case of third-party direct payments moves in that direction and I think you would like to reconsider that.

Mr Lessard: Thank you very much for your presentation. I wanted to ask you whether you felt that the government should enact the Ontarians with Disabilities Act before bringing in Bill 142 for implementation?

Mr Nikias: As I understand it, Bill 142 contains — oh, the Ontarians With Disabilities Act, the ODA, which we have supported? I'm not sure, frankly. I think it's important. The government has committed itself to bringing in the ODA during this mandate. In a meeting that we had with the Minister of Citizenship approximately a month ago, there was a commitment that there would be legislation introduced in the next few months and passed, as promised by the Premier.

The ODA is designed to remove barriers beyond the social assistance system and, if it was enacted, it would facilitate matters generally. It would probably not directly address the issues that we have been discussing here today. For example, if the question is, could the denial of the right to appeal be somehow mitigated by an ODA, the answer is no. I think the benefit to the disabled community would come if the suggestions I have made with respect to Bill 142 were done and also the ODA was enacted. I hope I have answered your question.

Mr Carroll: Thank you, Mr Nikias. As you stated at the beginning, your name may be Greek to us but your presentation was excellent. I admire you and I appreciate that presentation.

We set out as a government to honour a campaign commitment we made and to design a system, an Ontario disability support plan, that would provide income

supports for persons with disabilities and that would provide employment supports that would allow those who were capable to get the training they required to engage in some competitive employment. Those were our objectives. Those are the promises we made to the people of Ontario who live with disabilities.

In your opinion, sir, and I know you have some reservations, have we been successful in meeting our commitments?

Mr Nikias: Since Bill 142 has not been enacted yet and since it's under debate, I cannot answer the question. I know that you have brought in the legislation. Perhaps I will be criticized for it, but I can say, and we have said this in our brief, that the inclusion of employment supports, part III of the proposed legislation, in principle we support because it does move in the right direction.

What I mean by that is that it breaks the link, or at least it claims, it purports to break the link, between receiving social assistance and being permanently unemployable. That is a very important development. I personally have supported it for many years. I know many people in the disability community have supported that. If that is the effect of what you are doing, then I would say that you will have made a major step forward. I'm prepared to recognize that, but I also want to make sure that you understand the balance of my submission.

The Acting Chair: Thank you for your presentation. I'd like to remind the members of the committee that the shuttle bus will be at the door at 6 pm sharp to take you to London.

I want to thank everybody, groups, individuals, who took some time off from your busy schedule to come and give us your views on Bill 142. We want to wish you well.

Mr Carroll: May I say, Mr Chairman, that you've done a wonderful job of chairing the committee.

The committee adjourned at 1745.

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Official Report of Debates (Hansard)

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Journal des débats (Hansard)

Mercredi 22 octobre 1997

Standing committee on social development

Social Assistance
Reform Act, 1997

Comité permanent des affaires sociales

Loi de 1997 sur la réforme
de l'aide sociale

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Wednesday 22 October 1997

Mercredi 22 octobre 1997

The committee met at 0910 in the London Westin Hotel.

SOCIAL ASSISTANCE
REFORM ACT, 1997LOI DE 1997 SUR LA RÉFORME
DE L'AIDE SOCIALE

Consideration of Bill 142, An Act to revise the law related to Social Assistance by enacting the Ontario Works Act and the Ontario Disability Support Program Act, by repealing the Family Benefits Act, the Vocational Rehabilitation Services Act and the General Welfare Assistance Act and by amending several other Statutes /
Projet de loi 142, Loi révisant la loi relative à l'aide sociale en édictant la Loi sur le programme Ontario au travail et la Loi sur le Programme ontarien de soutien aux personnes handicapées, en abrogeant la Loi sur les prestations familiales, la Loi sur les services de réadaptation professionnelle et la Loi sur l'aide sociale générale et en modifiant plusieurs autres lois.

CHIEFS OF ONTARIO

The Chair (Mrs Annamarie Castrilli): Ladies and gentlemen, welcome to our fifth day of hearings on Bill 142. I apologize for the delay. We like to get started on time, but it has been incredibly difficult to get set up here this morning. I apologize to everyone who came here in a timely fashion.

We'd like to start promptly with the Chiefs of Ontario, Tom Bressette. I know Chief Bressette is in the room. Good morning. Thank you very much for being here. Again, I apologize for the delay. We're very happy to have you here. You will have 20 minutes for your presentation, Chief Bressette. I would ask you to introduce your co-presenter. You may use your 20 minutes in any way that you wish, and if time allows, we will ask you some questions.

Chief Tom Bressette: [Remarks in Ojibway.] I'd like to take the opportunity to welcome you to Ojibway territory that we also share with the Oneida and the Delaware.

My name is Tom Bressette. I'm the regional grand chief of the Chiefs of Ontario. My colleague is Nancy Johnson. She is our social services specialist and she'll be

here with me today in response to any questions you may have.

I am here today as the regional chief to address a number of issues concerning Bill 142, Ontario's proposed Social Assistance Reform Act, containing Ontario Works and the Ontario disability support program legislation.

As you may know, most of the 134 first nations communities in Ontario are affiliated with one of four political/territorial organizations, which I chair in my role as regional chief. I believe that at the standing committee hearings in North Bay and Ottawa you have already heard presentations from the leadership of two of these organizations: Grand Council Chief Vernon Roote of the Anishinabek, Union of Ontario Indians, and Grand Chief Doug Maracle of the Association of Iroquois and Allied Indians. Our remarks today will complement their comments in relation to Ontario Works.

I would like to begin by sharing with you our basic position with regard to Bill 142. We are seeking exemption from Bill 142, the Ontario Works Act, in whole or in part for all first nations desiring to be exempt. This means that if first nations wish to apply Ontario's workfare scheme, either as is or with minor modifications, they can do so. If a first nation wishes to opt out of the Ontario Works legislation in whole or in part, this would be pursued through the passage of first nation laws. First nations have the right and capacity to pass laws, whether Indian Act by-laws or independent laws under section 35 of the Constitution Act, 1982. The passage of laws by first nations is an option which the province of Ontario must recognize. In the next few minutes I will briefly outline a number of issues related to this position.

First nation law-making authority: Two examples of provincial laws where first nations can opt out of parts of or the whole of the legislation in favour of alternative arrangements are the Child and Family Services Act, 1984, and the Long-Term Care Act, 1994. We recommend that the Social Assistance Reform Act be amended to include similar first nation-specific opt-out provisions. Opting out would be subject to certain conditions, including cost neutrality and the provision of a reasonable alternative delivery system through first nations laws dealing with the same legislative area as the relevant provincial statute.

Social support systems have always been a defining feature of first nations cultural identity. Collective responsibility for the welfare of all members and the

provision of assistance to those in need are fundamental principles which we as first nations have maintained throughout our history, from pre-colonization to the present day. Therefore, first nations law-making authority in the area of social assistance is something which external governments should recognize. In fact, our experience with this sector significantly predates the experiences of settler governments.

Fiduciary duty: The crown in right of Canada has a fiduciary obligation to first nations to uphold treaty and constitutionally recognized aboriginal rights. Section 91(24) of the Constitution Act, 1867, assigns responsibility for Indians to the federal government; thus, the federal government has a primary fiduciary obligation. The constitutional division of powers assigns civil matters such as social services to the province. Therefore, in matters related to the provision of social assistance to Indians, both orders of government share a fiduciary responsibility. The fiduciary responsibility of the province toward first nations was recently confirmed by the Ontario Court of Appeal in the Perry decision.

The 1965 welfare agreement: Through the terms of the Canada-Ontario memorandum of understanding respecting welfare services to Indians, also known as the 1965 Indian welfare agreement, both Ontario and Canada have a legally binding contractual obligation to extend and pay for a wide range of social services on reserve.

Despite this obligation, it is apparent that attempts to offload this responsibility have occurred on both sides. The question of ongoing federal-provincial responsibilities to support first nations social services requires resolution and tripartite negotiation of comprehensive strategies.

Applying Ontario Works to first nations under Bill 142 would constitute a breach of the 1965 welfare agreement, which only includes general welfare for cost-sharing and not the FBA component. Federal money is involved to a large extent when it comes to first nations social assistance, so a blanket application of Ontario Works to first nations would not only be inappropriate, it could hurt the province, as federal dollars may be lost unnecessarily. Given that clause 2.2 of the agreement requires first nations consultation and consent before the province extends a new program on reserve, first nations had expected Ontario to seek first nation consent before attempting to impose new social assistance legislation of any kind.

As background, the province's application of the 21.6% welfare rate cuts to first nations in 1995, besides doing serious damage to first nations-provincial relations, was totally illogical given that under the cost-share formula of the 1965 agreement most of the savings generated from first nations GWA recipients went to federal and not to provincial coffers. The severe cuts only served to escalate poverty conditions for first nations citizens who, by our estimate, suffer from a welfare dependency rate six times greater than the provincial average of 10%.

Imposing Ontario Works in first nations communities would also negate the findings of a 1979 tripartite review of Indian social services which produced the report A

Starving Man Doesn't Argue and a subsequent report in 1980. Based on the recommendations from this review, Canada and Ontario launched into tripartite discussions with first nations related to the establishment of first nations authority in the area of social services, but the process was overtaken in 1985 by urgent matters in the area of child and family services. We recommend that similar senior-level tripartite discussions occur immediately to deal with first nations legislative policy and delivery issues with regard to Ontario Works.

0920

Delivery issues: Since 1995 the province has made a number of changes to the General Welfare Assistance Act regulations without consulting first nations and despite clause 2.2 of the 1965 agreement. These regulatory changes have already laid the foundation for the Ontario Works program. First nations welfare administrators are uncertain how to proceed, given that schedule D, subsection 11(1) of the Ontario Works Act states that the General Welfare Assistance Act and regulations continue to apply in first nations communities "until the prescribed date," which we understand to be March 31, 2001.

Senior ministry officials informed first nations welfare administrators in August that this clause is in effect a GWA Act freeze for first nations; however, correspondence from other senior ministry officials indicates that Ontario Works "will be implemented across the province, including in first nations communities, by January 1998." Correspondence from the assistant deputy minister in October 1997 states only that first nations are "encouraged to submit their business plans as soon as possible in order that the Ontario Works program is fully implemented in 1998." Our interpretation is that Ontario Works has no application to first nations unless and until they have negotiated a business plan to their satisfaction.

Grand Chief Maracle's presentation to you yesterday highlighted a number of delivery issues specific to Ontario Works, including our concerns with regard to amalgamation, performance-based funding, lack of first nations infrastructure and unknown impacts on negotiated items such as first nations caseload ratios and automated delivery. I will refer you to his presentation for the details of these concerns. It should be noted that these issues may be of particular concern to first nations who may be looking to opt in to Ontario Works on an interim basis but find it to be unworkable given these issues.

Extensive first nations consultations in 1994 led to the development of a community-based model for supporting individuals in their movement towards self-sufficiency through supports both to individual clients and to community economic development. We refer to this model as the First Nations Innovations Framework, and our leadership brought it forward to the ministry in 1995 as the approach mandated by first nations. However, the ministry subsequently ignored the Innovations approach in favour of Ontario Works.

Although components of Innovations are similar to those of Ontario Works, our approach would reduce welfare dependency and address the lack of jobs in first

nations communities by supporting small business development. Our approach requires support for infrastructure and capital. The committee will recall that Grand Chief Roote made reference to the first nations Innovations approach and also detailed the work of four Anishinabek communities in piloting jurisdiction over social services.

It is worth noting that there is support in principle from the province for special measures to address aboriginal economic development, as outlined in the Ontario Native Affairs Secretariat's Aboriginal Economic Development Strategic Policy, which we believe is due for cabinet approval in November.

Transition funding: Although recent correspondence to first nations indicates that transition funding is 100% provincial, the revised ministry guidelines for first nations state that this funding is provincially cost-shared. It is unclear whether Ontario has reached an agreement with Canada in relation to cost-sharing this funding, although it would certainly be in the province's best interest to do so. First nations must be at the table should such negotiations proceed.

Unlike municipalities which negotiated transition funding prior to submitting business plans, first nations are being told to submit their plans first, by December 31, 1997, and then apply for transition funding. We are also concerned that while the ministry is imposing deadlines on first nations for submitting business plans, and the opportunity to benefit from transition funding is contingent upon business plans, the Ontario Works regulations which will define the provision, delivery, administration and funding of assistance on reserve have yet to be written and shared with us. The government expects to develop and apply the new Ontario Works regulations without providing an opportunity for us to review and suggest modifications. First nations cannot be expected to comply without being involved in the development of regulations that would impact upon us directly.

Royal Commission on Aboriginal Peoples: Due to the remoteness and diversity of first nations and changing labour market needs, the reality is that Ontario Works will not create any genuine change within first nations communities. Participation and enhanced job search activity could be futile where the lack of jobs in an area is not addressed. First nations require community economic development and job creation to make an impact on the problem of long-term welfare dependency. In volume 3 of the final report of the Royal Commission on Aboriginal Peoples, dated November 1996, the commission stated that first nations' inherent right of self-government is recognized and affirmed in section 35(1) of the Constitution Act, 1982; therefore, non-aboriginal governments, federal and provincial, must support policy change and ensure adequate resources are provided for a new social structure within first nations communities. The commission recommended the redistribution of lands and resources, providing an opportunity to strengthen the development of first nations economies.

The Royal Commission on Aboriginal Peoples identified three principles for reforming aboriginal social assist-

ance principles endorsed by the Assembly of First Nations, the national first nations organization. These principles are (1) social assistance aimed at development, (2) a holistic integrated approach to programming and (3) aboriginal control. These principles are embodied in recommendations 2.5.48 through 2.5.52 of the final report. The formula for change recommended by the Royal Commission on Aboriginal Peoples echoes the Ontario first nations Innovations approach, which we had ratified in 1995.

Ontario Works will not work in first nations communities unless it is combined with approaches that stimulate and support small business development and encourage partnerships. First nations people want to work and want to overcome the cycle of welfare dependency. We are seeking a process to discuss options for making this happen, in particular related to working jointly on implementation of first nations Innovations.

Many first nations are already engaged in a form of workfare through such initiatives as social assistance transfer funds under the Department of Indian Affairs and are not necessarily opposed to the concept of workfare. However, when workfare is prescribed under the stringent terms and conditions imposed by Bill 142, the Ontario Works Act, we find it intrusive and unworkable for first nations communities. We have engaged in discussions with the province in an effort to persuade the ministry to allow flexible use of Ontario Works funding to complement first nations social assistance transfer fund projects. However, to date, the ministry has not responded to this request and is now pressuring first nations to get on board with Ontario Works despite the lack of certainty on these issues.

0930

While some first nations are proceeding with the development of business plans under Ontario Works, and we support their efforts to work within the envelope of Ontario Works, other first nations should be able to opt for exemption and pursuit of direct federal bilateral approaches. All first nations are concerned with the sweeping powers of Bill 142, which would allow the province to ignore first nations jurisdiction in the area of social assistance. First nation welfare administrators are concerned that Ontario Works would reduce the small numbers of paying jobs in first nation communities, lead to overcrowding and increased poverty and fail to address job creation.

In closing, I hope that my comments have clarified some of our concerns with regard to Bill 142. In summary:

We strongly recommend a moratorium on the application of Ontario Works to first nations, except where business plans have been negotiated to the satisfaction of the first nation or nations. This could either be accomplished through amendment, or possibly under an existing clause such as schedule D, subsection 11(1).

We are prepared to work with the province in developing wording for exemption clauses in the draft legislation to accommodate first nations opt-out provisions.

We recommend immediate tripartite discussions with Canada and Ontario to address and resolve the full range

of first nation issues with regard to the province's social assistance reforms. This may be a way to save Ontario dollars through the 1965 welfare agreement.

There must be no change to the 1965 welfare agreement without first nations consent and a federal guarantee of cost-sharing. First nations cost of welfare administration must be maintained.

The ministry must continue to support and resource the training unit of the Ontario Native Welfare Administrators Association, as previously negotiated. The threat of its being eliminated through an open bidding process must be removed.

Meegwetch.

The Chair: Meegwetch. Thank you very much, Chief Bressette. Unfortunately you've used up all of your 20 minutes and there won't be any time for questions. I do want to thank you for bringing your views and I assure you the committee will give them full consideration.

Mrs Sandra Papatello (Windsor-Sandwich): May I have just two questions tabled for the parliamentary assistant? May I have an explanation of the 20% that would, under a regular municipality and Bill 152 being passed and the downloading — with first nations welfare assistance costs, who picks up the 20%? Is it run through municipalities in the area? I don't know how that 80-20 mix is. That's one question.

Second, further description of subsection 11(1), schedule D. Is it the interpretation that in the case of first nations the GWA would just continue until 2001, or what is the interpretation of that schedule?

Mr Jack Carroll (Chatham-Kent): I will get the answers to those questions as soon as possible.

Mr Peter Kormos (Welland-Thorold): Further to that, we know this is not the first time this issue has been raised, and you referred to that. These are some very specific concerns that make reference to some long-standing protocols and agreements between the federal, provincial and first nations communities. I don't expect the parliamentary assistant to respond today, but surely we should be able to expect a prompt response to these issues that have been raised in, quite frankly, the broadest sense. There have been concerns about the lack of consultation and about whether or not historical protocols and agreements are going to be abided by.

I put this to the parliamentary assistant: If he could address this committee with a response to those concerns, we'd know where we stand, first nations people would know where they stand and we could move from there.

The Chair: Thank you, Mr Kormos, and thank you, Chief Bressette.

Chief Bressette: Could I make a couple of parting comments?

The Chair: Very briefly.

Chief Bressette: I would just like to reiterate the position we always have maintained. Our people are not people who just primarily are here looking for a handout. Many of our community members do work off reserve, they contribute to the provincial tax system, they pay into welfare, and our people are not being given that. We're

looked at as primarily a federal responsibility, like we don't contribute to Ontario's economy, and that is just not the fact.

I think it's very much incumbent on the government to begin to recognize contributions many of our people make. Myself, I worked in the construction industry. I paid large amounts of money into welfare the years I worked there, over a 12-year period, before getting involved with first nation politics, and I did contribute to the taxation system in this country. Many of my other people do the same thing. We travel all over the place. We leave our communities. We commute back and forth. We pay into taxation through many things, gasoline, you name it, we pay the tax system.

Clearly the government's idea that we are not paying our fair share in this region and in this country has to be stopped because those just are not the facts.

The Chair: Thank you very much, Chief Bressette, and Ms Johnson, for being here this morning. We appreciate it.

BRANTFORD AND DISTRICT ASSOCIATION FOR COMMUNITY LIVING

The Chair: Next is the Brantford and District Association for Community Living. Good morning. Thank you very much for being here. I wonder if you might identify yourselves for the record, and you then have 20 minutes to make your presentation.

Ms Eleanor Moore: My name is Eleanor Moore. I have with me Jane Angus, the supervisor of community services with the Brantford and District Association for Community Living. Madam Chair, honourable members, ladies and gentlemen, thank you for allowing us the opportunity to address your committee.

As I said, my name is Eleanor Moore, and I am the parent of a 35-year-old developmentally challenged daughter who has always lived at home with her family. Today I am representing the Brantford and District Association for Community Living parents lobby committee, which supports individuals with a developmental challenge.

In your package, we have included a letter dated October 14, 1997, signed by supported individuals and their families who attended a meeting held in this past week. For the past four years we have been lobbying for changes to the Family Benefits Act, as we feel that people with developmental disabilities need different kinds of support which were not provided for through the general welfare system. We have attached a copy of one of these presentations, dated January 12, 1996, which was made to Brantford and Brant county members of provincial Parliament.

A support system is required throughout a developmentally disabled person's life and needs to respond to the changes in an individual's life. Financial support must be available to provide for human supports, assistive devices and much more, to ensure each person can participate

effectively in their community: at work, leisure, school, and in their environment.

Regarding Bill 142, especially the Ontario Disability Support Program Act, 1997, it appears to include some positive changes and we support the following: end the frequent reassessment to determine eligibility for supports; provide lifelong supports for individuals with a developmental challenge; allow people to live with as much independence as possible; provide for unique costs that result from their disability; end delays to reinstatement of benefits when a person loses their job; raise the limits on cashable assets; remove the fees for technological aids that assist in daily living; allow families to contribute to their loved ones without triggering financial penalties; allow families to make contributions towards other costs to improve the quality of life of their family members; provide more generous rules governing family trusts.

However, we have some issues with the Ontario Disability Support Program Act and we feel the following must be addressed. The definition of a "person with a disability" in the new act does not appear to be inclusive due to the word "substantial." The proposed definition of disability is:

"(a) the person has a substantial physical or mental impairment that is continuous or recurrent and expected to last one year or more;

"(b) the direct and cumulative effect of the impairment on the person's ability to attend to his or her personal care, function in the community and function in the workplace, results in a substantial restriction in activities of daily living."

People with a developmental disability are individuals and each has their own abilities which should be supported. The use of the word "substantial" may exclude some people with a developmental disability because they are not "disabled enough."

The definition could also exclude individuals in part (b) with the use of the word "and" in describing impairment on the person's ability to attend to his or her personal care, function in the community "and" function in the workplace.

We recommend the inclusion of "and/or" in this statement to allow individuals as much independence as their abilities will allow yet ensure the supports in those areas where they require them due to their disabilities.

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The Ontario disability support program must support everyone with a developmental disability. The accepted psychological definition of mental retardation or developmental disability is that three of the following criteria must be met: (1) an IQ below 70 to 75; (2) existence of adaptive skills and behaviour that are below the typical of the individual's age peers; and (3) the delays are manifested prior to age 18.

Under the act's section headed "Persons Applying For an Allowance," we are pleased that everyone with a developmental challenge who is currently eligible for the family benefits disability pension will continue to be eligible under the new program. However, we feel it must

also accept any new applicants with a developmental disability to be eligible to receive the new disability support benefits. The criteria for eligibility are ambiguous and the entire legislation relies on regulations that are easily changed. The act itself provides few answers to our original issues presented over the years, including:

How can dollars left in trust be used? Are there restrictions?

Is there a limit on a prepaid funeral? Is a prepaid funeral considered a liquid asset?

How much can an individual earn in a month and still receive some financial support and/or benefits from the disability support program? What procedures are required if someone loses their job and needs to return to the disability support program pension?

How is this legislation going to help the adult children who have lived at home with their parents all their lives but who may soon be faced with requiring different accommodations and supports due to their parents' age, ie, in their 70s and 80s, and some even older?

Adults with a developmental challenge who have lived at home with their parents have saved the province billions of dollars. Based on a minimum rate of \$100 per day for institutional care, each of us here today has saved the government in excess of \$1,168,000. I understand that the \$100 figure now is in excess of \$300 a day, which would mean that each of us has saved in excess of \$3,850,000. More important, we have given our disabled sons and daughters the emotional and educational stability that only a home environment can provide, as well as the opportunity to participate in the community to the very fullest.

This cannot continue without assistance, including having community-funded supports available such as services through the Brantford and District Association for Community Living and special services at home. Cutbacks in these areas penalize the very families who have saved the government so much by keeping their sons and daughters at home.

People eligible for the new disability supports must be able to continue to pay room and board when living at home. Currently family benefits' recommendations are that \$400 per month, or \$12.90 per day, can be paid to parents for room and board. The dollars allowed are extremely low compared to the ministry-recommended institutional and respite fee of a minimum of \$26.90 per day.

It is also inequitable that individuals living with their parents receive \$708 per month from the current disability benefits while someone living in the community in a group home, boarding lodge or apartment receives \$930 per month based on accommodation expenses of \$350 or more per month. The expenses for daily living over and above accommodation expenses are the same for both types of accommodation, yet the community person receives over \$200 per month more to pay for clothing, activities, transportation, and personal items. Will there be any consideration in the near future of an increase in the cost

of living for people receiving the disability support pension?

Please consider that lifetime support, varying from a few hours to a full 24 hours per day, will always be needed for someone with a developmental challenge to carry out their daily activities. As well, often special adaptations to the environment are needed to help individuals live as independently as possible. These are costly and must be in place either through the disability support program benefits for individualized purchase of services or through provincially funded services in Brant county. It has been proven that most people with a developmental disability will improve their functioning with effective supports, allowing them to live more productive, independent and integrated lives.

In a mid-sized community like Brant, we lack many of the varied services of larger communities and our needs for supports must be recognized. The legislation does nothing to address either how lifetime supports will be flexibly provided nor how smaller communities like Brant will equitably have supports provided.

The new legislation will remove developmentally disabled people from the general welfare system, but the act seems to still be based on welfare criteria of eligibility and appeals rather than addressing the needs of an individual with a disability.

We recommend that every person receiving the disability support program be provided with a comprehensive regulation handbook. When will the regulations regarding the act be available?

In summary, our major concern for people with developmental challenges is their safety, security and dignity. We hope that any changes in legislation will always address the need for all persons to live in a state of dignity, share in all elements of living in their community and have the opportunity to participate effectively. Thank you.

The Chair: Thank you very much, Ms Moore. We have two minutes per caucus for questions. We'll begin with the NDP.

Mrs Marion Boyd (London Centre): Thank you very much for your presentation. I know how dedicated you are because I know how often you bring these issues forward, and I want to thank you.

One of the concerns I have about the disability portion is the issue of having work aides available only for competitive work. I would assume that would be a big problem for a lot of the people for whom you're concerned, because with some job coaching and so on they can work, but it may not be competitive work. Would you like to comment on that aspect of the bill?

Ms Moore: You're absolutely right. They do need job coaches, many of them only for short periods of time. Some will always need someone with them full-time. I'm not sure what else I can say about that except that this is something that is definitely needed. At the present time, if they require that, it's having to be paid from the association, or the parents are having to pay that themselves.

Mrs Boyd: It's a real worry, isn't it, because with vocational rehab dollars being folded into this whole program, it means some of the resources that have been available in the past won't be available for that kind of assistance.

Ms Moore: Right.

The Chair: Very, very briefly, Mr Kormos.

Mr Kormos: Mrs Papatello has been raising this issue consistently, because the utilization of the phrase "competitive employment," for instance, as it relates to employment supports — you talk about the word "substantial" limiting access. That "competitive employment" in terms of who's eligible for employment supports again limits it even more. We've been sitting here for now day five without any clear definition from the government as to what the heck they mean by — I think I know what they mean — "competitive employment." We'd sorely like to have the government explain what they mean by that.

Ms Moore: We would too.

Mr Carroll: Thank you, Ms Moore. We appreciate you being here, coming from Brant county on a snowy morning like this.

Your concerns on the question about the definition are very well founded. The minister has been on record as saying that she understands those concerns and will be clarifying the definition to make sure that we include "or" between the three conditions so that it is not that there must be a substantial reduction in activity in each of the three; it's only one of the three that would be required to do that. That will be clarified.

Ms Moore: That's a start.

Mr Carroll: You've asked several questions in here, some of which I feel comfortable answering now. Others I don't. I would be prepared to get back to you on all of the issues that you've asked, in writing, because there isn't time to do it in a minute and a half.

Ms Moore: Thank you very much.

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Mr Carroll: I will get back to you on all of those.

We share your concern that the act serve the people who have developmental disabilities well, that it take into account their individual requests and requirements, as opposed to a blanket treatment for all of them. So I think our goals are the same as yours.

As you know, it's a very complex area of concern, because there are those people who believe that folks with developmental disabilities should be kept in institutions. That's a whole movement out there that we struggled with. There are others who believe there's a place for everyone to function in the community. Of course, that's the direction in which successive governments have moved. It's a slow process.

Ms Moore: That's one of our main bones of contention. Now that the government is taking this route of deinstitutionalizing, those of us who have kept our young people at home all their lives are getting pushed aside to make way for the ones who are coming back from institutions. We don't feel that's fair.

Mrs Papatello: I find some irony in the bill where it deals with individuals with disabilities. The irony is that those who need to be substantially disabled, and there are many who are, likely will meet the criteria and therefore be fine. They're going to get over that hump and get into that one basket of "substantially disabled."

You probably are aware of many people who have disabilities that may not be substantial but are enough to make life difficult: difficult to find a job, difficult to keep a job. The ones who are marginal actually are the ones who have the greatest likelihood of working, much more so than those with significant disabilities. If you're marginally disabled, you have a greater likelihood of finding work and keeping work than those who are very disabled, but the marginally disabled are the ones who may not meet the criteria and therefore get the supports. So the very people who are most likely to get and keep a job are the ones who won't make the definition to access the employment supports.

I find that very ironic because the very people who have the greatest likelihood to work, have worked in a competitive environment, are the same ones who are fearful that this very act isn't for them.

Ms Moore: That's why we don't like the word "substantial." We feel that anyone with a developmental disability has a substantial disability.

Mrs Papatello: You also mention in your brief that you may be a family, and colleagues of yours are families, who receive special services at home, and that you're suffering cutbacks. The minister is on record as saying there have been no cutbacks to this program.

Interjection: I've got news for her.

Mrs Papatello: Okay you tell me, on record, so that we can show the minister, have you had cutbacks in the service?

Ms Moore: Yes, there have been hours cut in Brant county, definitely, to families.

The Chair: Thank you very much for being here this morning. Have a safe trip back. We appreciate your comments.

Ms Moore: It's not as bad as two years ago when we came.

The Chair: The Ontario Rehabilitation Work and Community, please, Steve Shearer.

Mr Carroll: Madam Chair, could I just take a minute to answer Ms Papatello's couple of questions.

The 20% share is paid by the federal government on behalf of first nations. Section 11(1) of schedule D was put in specifically to deal with the issue of the implementation of Ontario Works being a different challenge in first nations communities than it is in the rest of Ontario. It specifically is in there for that reason. The date referred to in section 10 does not include first nations. In section 11(1) you will see reference to a prescribed date. That will be the date by which we have worked out the arrangements to implement Ontario Works in first nations. We don't know what that is at this point in time because negotiations —

Mrs Papatello: — it's coming in the regulation?

Mr Carroll: Yes.

Mrs Papatello: Are you in negotiation with first nations to settle that date?

Mr Carroll: Yes, we are.

Mrs Papatello: Who are you negotiating with?

Mr Carroll: With the chiefs and the federal government.

ONTARIO REHABILITATION WORK AND COMMUNITY

The Chair: Mr Shearer, we appreciate your being here.

Mr Stephen Shearer: The Ontario Rehabilitation Work and Community welcomes the opportunity to respond to the proposed legislation and your efforts to seek input into Bill 142.

Who we represent: ORWC has been representing the needs of vocational service providers across the province for over 25 years. ORWC came together because of a need to have a strong voice that was focused on the vocational needs of disabled adults. ORWC presently represents over 60 organizations that deliver vocational rehabilitation services to over 10,000 adults across the province.

Our new mission statement best highlights our new focus: ORWC is a professional association representing organizations who provide innovative training to assist individuals with significant barriers to make the transition to employment and community-based alternatives.

We will be keeping our comments to the Ontario Disability Support Program Act, 1997.

If there ever was a time in our history when change was necessary, today is that time. This bill begins to tackle the wrongs that have chronically failed persons with disabilities. This bill enacts the key supports necessary to envision an employment system that would enable disabled adults to contribute economically in their communities.

David Osborne, in his book *Reinventing Government*, highlights the old policy-driven paradigm when he states: "Agencies come to assume that if they are not sole service providers for a client population, they will lose program funding; if they lose their money, they lose staff, they lose status; if they lose status, they lose future funding. Therefore bureaucracies naturally tend to spend their time and attention building and defending turf, not in managing well."

This bill puts the consumer of service at the centre. It proposes a service system that is integrated and client-focused. It focuses resources on services for people. It clearly articulates the roles and responsibilities necessary to achieve successful outcomes.

ORWC supports the following key components of Bill 142.

Administration of the act: ORWC supports the creation of a new legislative framework distinct from the old welfare system. We support the movement of persons with disabilities currently receiving income assistance and

benefits through the family benefit program out of the welfare system and the creation of a new and separate income support program for persons with disabilities to meet their unique needs and protect their benefits. ORWC supports the recognition that the disabled adult be recognized as a key contributor within society.

Eligibility for and payment of income support: ORWC supports the move to clearly define who is eligible under the proposed legislation. ORWC supports the move towards removing undesirable labels such as the term "permanently unemployable." ORWC supports the focus on the definition of "disability," that being "substantial physical or mental impairment that is continuous or recurrent and expected to last one year or more." We support the exception clause if the impairment is caused by the presence in the person's body of alcohol, a drug or some other chemically active substance that the person has ingested. Clarification is needed, however, in situations of foetal alcohol syndrome, that being persons who have residual disability from substance abuse.

In terms of employment supports, ORWC supports the wider definition of eligibility for employment supports as stated in subsection 32(2): "the person has a physical, psychiatric, developmental or learning impairment that is continuous or recurrent and expected to last one year or more and that presents a substantial barrier to competitive employment." Further, we support the intent that eligibility for these supports is linked to an outcome of competitive paid employment. We support the fact that there is no mandatory requirement under this legislation that a person with a disability pursue employment as a condition of eligibility for income supports.

Income supports: ORWC supports the proposed income support component that is designed to recognize that persons with disabilities have longer-term, ongoing needs. We support the move to recognize that persons with disabilities need secure income support and at the same time the flexibility and incentives to pursue and access the employment supports necessary to achieve participation in a paid competitive employment situation. Once again this legislation encourages and supports the move to help remove barriers to full employment participation for persons with disabilities.

Allowance and benefits: ORWC supports the improvements proposed under this legislation. The most significant improvement is the elimination of the 25% copayment for assistive devices. The proposed legislation will move to a 100% payment by the province as a means to eliminate yet another barrier to full employment.

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Other key highlights that ORWC supports: no financial penalty if efforts at employment fail to be realized; expenditures on supports to employment to almost double from \$18 million today to \$35 million upon full implementation; the elimination of unnecessary medical testing and assessments; an increase from \$3,000 to \$5,000 in the amount of assets that people with disabilities can retain. Retention of compensation awards are to be increased to \$100,000 from \$25,000. Families and other persons will

be able to assist recipients with disability-related costs and can give \$4,000 per year towards non-disabled-related costs. Life insurance policies with a cash value of less than \$100,000 will no longer be considered liquid assets and can be borrowed against.

Further recommendations from our membership:

Further clarification is needed in regard to the regulations and guidelines surrounding the possible restrictiveness resulting in a person not being disabled enough.

Ontario disability support participants are exempt from workfare under the social assistance reform. However, persons who are deemed not disabled enough may be required to participate in workfare as a condition of receiving income support.

Assistance under the Vocational Rehabilitation Services Act is not covered under this new legislation.

There is a need to look at some incentives for employers to hire disabled adults. If the government could leave some flexibility surrounding this issue, it could mean the difference between dependence and independence.

Last, regulations flexibility: ORWC recommends that flexibility be the key as you move towards making Bill 142 a reality. In this regard we draw your attention to a number of individuals who because of their disability are unable at present to participate fully in a minimum-wage job.

ORWC supports any legislation that would continue the efforts of our membership as we provide credible pre-employment preparation programs. We support a system that promotes opportunities to develop skills, experience, confidence and contacts leading to the ultimate goal of paid employment.

Some possible services supporting hard-to-serve clients where competitive employment is not an option could focus on community participation through volunteerism similar to the Ontario Works Act re sole-support parents. Other models focus on supported work cooperatives and supports that recognize the longer-term needs of severely disabled adults. You will be receiving a written brief from a number of agencies in the Toronto area which will deal directly with the supports needed for this population.

In conclusion, ORWC supports without hesitation the government's proposed legislation of a progressive, dynamic system of services designed to improve labour market participation and employment outcomes for persons with disabilities.

We support the move of persons with disabilities into a separate piece of legislation designed to recognize their unique needs and protect their benefits.

We further support your legislation as it relates to the voluntary choice of the disabled adult to pursue employment without fear of losing income support. This is realistic based on the fact that some persons may not be able to achieve competitive employment. Your legislation provides a greater opportunity for employment, combined with an increase of independence, for the disabled adult.

Last, we support this bill in its efforts to put the consumer of service at the centre. Dave Osborne articulates well when he defines the customer-driven system as

one that forces service providers such as ourselves to be accountable to consumers, that stimulates innovation, that gives people choice between the kinds of services they want, that wastes less because they match supply to demand, and that creates greater opportunity for equity.

We look forward to working with this government as it begins to develop regulations and guidelines for the implementation of this bill.

The Chair: Thank you very much, Mr Shearer. We have three minutes per caucus. We begin with the government.

Mr Carroll: It's nice to hear a presentation from somebody who works with the disabled community who understands the intent of Bill 142.

I just want to clarify on the issue of alcohol and drug dependency that we do have to make sure that if the alcohol and drug dependency has led to another disability, we make it clear that we're not going to discount that person. The example is quoted as the person who, driving drunk, wrecks their car and becomes a paraplegic, and that our intention is that we would not include them as disabled. That is not our intention. You bring up the area of foetal alcohol syndrome; again, the same type of situation. So we do need to clarify that.

I want to get your opinion. We had a situation with a lady yesterday in Ottawa who for 15 years has been assessed by voc rehab. I mean, what a frustrating situation, to continue to be assessed and not to be given any help to gain some employment. That's one of the problems with voc rehab.

Can you give me your opinion as somebody who works in this area about the whole concept of individualized funding? There's a lot of pressure being brought to get into individualized funding. As somebody who works in this area, how do you feel about that?

Mr Shearer: I can only give you the example of the agency that I am president of. We're an agency that is set up under an individualized funding model. Certainly we are unique across the province. I think where the opinion lies is that there is the possibility that some instability may be caused by moving towards an individualized funding approach, because organizations that we represent have traditionally received block grants to provide service to disabled.

If the intent of the bill in the reshaping of VRS and the looking at a new system could balance those two together, then I think you've got a win-win situation. However, it's got to be paramount that the individual service has more control. They want more control and I think they have the right to have more control. If the outcome is competitive employment and less dependence on the welfare system as a whole, then I support that move.

Mrs Papatello: Are the organizations you represent non-profit or private?

Mr Shearer: The majority of our agencies are not for profit.

Mrs Papatello: Are non-profit?

Mr Shearer: They're non-profit.

Mrs Papatello: Are you concerned at all about the aspect of privatization of voc rehab so that there will be a tendering process where private companies, namely American, are so far interested in coming in and offering this kind of service and will likely be able to undercut the current levels of wages, for example, about the turnover of staff that may result from the non-profits, and in fact continuous turnover that has typically been found in private companies which offer a lower wage in this sector?

Mr Shearer: I am a strong supporter of this book by Dave Osborne called Reinventing Government and his follow-up book called Banishing Bureaucracy, where he highlights a number of examples that go back in the 1970s.

California hit a tax wall in 1978 and he shows a number of examples where they went to a competitive bid situation. What it did is it forced the not-for-profit organizations that had traditionally received that money to look out and find innovative ways of providing services. From his findings, the majority of services are still provided by the not-for-profit sector at a cost savings to the taxpayer. As to the for-profit organizations, sure, some of them benefited, but the majority of services still remained in the not-for-profit camp.

Mrs Papatello: What's the average wage you would pay workers in your sector?

Mr Shearer: In our sector?

Mrs Papatello: The groups you represent.

Mr Shearer: Probably in the neighbourhood of around \$18 an hour.

Mrs Papatello: In the Red Cross homemakers, that is currently a big issue. The wage that is out there by the community access centres when they're asking for tendering, which they are currently in, the wage ceiling is \$9.15 an hour. I suggest that you likely will lose most of your staff if that process were mirrored, and that is another ministry of this current government.

Do you always live your life according to one book?

Mr Shearer: No. We as an organization, the organization that I run, took a proactive role in terms of pursuing private contracts, and that's what we've done. A lot of our members have. You have to realize that not all of our members are 100% funded under the Vocational Rehabilitation Services Act. A lot of our member agencies secure contracts within the community and work with the private sector. Some 75% of our agency's revenues are private and 25% is a government grant. Goodwill Industries in Toronto, London, Windsor are higher than that. They get less of a grant from the government.

Mrs Papatello: What was the wage again? Eighteen dollars?

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Mrs Boyd: Mr Shearer, I'd like to pursue this a little bit because I think one of the real concerns we have is this whole issue of the effect of privatization. I must say that your interpretation of what has happened in the United States differs quite considerably from a lot of the information that we've had around the availability of

services, the kind of wages, the kind of professional qualifications that people have in offering those services.

I guess what we really are concerned about is that as this switch goes from the voc rehab program — which nobody here is disputing is perfect and has worked well; we're not saying that either — but in fact what we may lose is some of the professional expertise that has been built up and some of the relationships between the client group and the organizations. Is that not a worry for you and for your members?

Mr Shearer: We can sit and talk about possible scenarios, and there are members who are genuinely concerned about that. The bottom line for me is, if this bill is being enacted to remove barriers to help people find employment, is that not the basis why a lot of us are employed? We're employed to help that happen.

In any discussions I've had with the assistant deputy minister and with the other director who's in charge of the disability unit up in Toronto, we have been told all along that there would be no dollars taken out of the present system and that they are interested in looking at a system that would create similar stability, if not enhance further the supports for persons with disabilities. So we are working off that premise that was spoken about not only by the minister at our conference last month, but from the people we're dealing with that this will be maintained. Maybe I'm a bit naïve on that point, but we have it on record that that's what they told us.

The Chair: Thank you very much, Mr Shearer. I know you came from Kitchener. We're very thankful that you were able to come.

Windsor Essex Low Income Families Together, Mary Seaton and Christine Wilson.

Mr Kormos: Chair, while these people are settling in, there's a woman here, Judy Potter from London, who had applied to be heard and wasn't able to be accommodated. She's planning to be here all day. She's requesting that, if there is a cancellation, she be considered. She indicates that she may not need the full 20 minutes. As it is, we're travelling out of here by motor vehicle this evening, so we've got a whole lot more flexibility in terms of leaving. I'm prepared to leave 30 minutes later than we had intended because, heck, we're only going to Niagara Falls. I just raise that with you.

The Chair: I'd be happy to entertain it. Is there consensus among the committee that we make some time? I don't hear any objections. We'll do our best to accommodate.

WINDSOR ESSEX LOW INCOME FAMILIES TOGETHER

The Chair: Ms Seaton, Ms Wilson, thank you both very much for being here and driving in on such a terrible day. We look forward to your presentation.

Ms Christine Wilson: My name is Christine Wilson. I'm the coordinator for WELIFT, and Mary Seaton has chosen to speak after me.

I did in the first place want to mention the extreme inconvenience of our having to attend here in London. Mary and I are both people with disabilities and we found the travelling to come to you very inappropriate. We also found it very costly. We live on disability pensions and finding money to come to present to the government was something we thought was really kind of ludicrous. We really did want to mention that we're not happy about that. We hope that in any further discussions the government will try to make more accommodation for people, especially taking into consideration seniors and disabled, in hearings like this. We understand the government is trying to save money, but please consider that in the future. I'd like to go on with our presentation now.

We are not making a written submission. WELIFT is very much like our membership, one of the very poorest groups that you'll find, so we don't have access to computers and printers.

We're concerned with the non-clarity in the definition of disability. We're very concerned about that. We would definitely like what definition there has been made already to be broadened. We know of many people who may well be affected by this type of wording from the government and a lot of these people who may be excluded who really should be on disability and are not going to become employable.

We've looked at substance abusers. A lot of people we know who fit into this category are people who have substantial other medical illnesses that weren't diagnosed which led them into these addictive behaviours. We would like that to be a very relevant part of our presentation. We feel that workfare in itself is a punitive measure to deal with poverty and is not realistic. The ideas of workfare and applications of the program cannot progress persons into self-sufficiency.

Some ideas that we thought of ourselves are that the government is failing to offer us options. There are many people who would have the capability of starting small businesses if that kind of funding was available, not necessarily in the form of loans for extremely limited-income people, especially people in the disability section who could perhaps run and operate their own small businesses. They may not ever become rich at this but might become self-sufficient. There should be more options available to people. I was very interested that our first nations people are also asking for something similar, if we can find ways to help people out of poverty, not punish them.

We found it very offensive that the VRS training program is being eliminated and that nothing is being put in place in the same measure to really address those specific needs. As Sandra pointed out, some of the people who are going to need this program the most, these kinds of supports, are not going to receive those supports. It seems to us that not a lot of thought was really put into that and that needs to be thought out a lot more before this is passed.

The welfare cuts have placed enormous burdens on our communities, and we're looking at another form of

downloading. By making these cuts, it was downloaded on to the citizens in the communities to provide further food to food banks that are already collapsing under the stress of the people who are coming to them. The majority of new people relying on food banks were people who were and probably still are in the welfare system, but these are people who were spending their welfare cheques properly and feeding their children. They are not able any more to feed their children; the stress is too great.

With the cuts, rents did not go down, utility bills did not go down. People have lost their phones. Those people who did have cable surely don't have it any more. This is, to us, a disgrace that people are so forced into such a degrading thing as going to food banks.

We're looking at the problems of social housing. We don't have enough social housing as it is. We're not going to get any new social housing and the government is planning to get rid of the existing social housing. The biggest joke in Windsor right now is Casino Windsor putting in a swimming pool for one of our downtown projects, but the projects are going to be eliminated within a couple of years. We just don't understand government, I guess is what we're saying.

We would encourage this government to look very seriously at the changes they've already made and how vicious these changes have been. I know there have been some people who supported the ideas and are very convinced that people on welfare are the creators of all the debt load, but anyone with any sense at all knows that's really not true. The vicious attack on welfare really has to be stopped. I guess there is not really another word. We really are hoping for that.

Mary Seaton would like to present now.

1020

Ms Mary Seaton: I'm going to address this from the point of view of a senior. I'm a 62-year-old woman. This is the age group that has learned that we are going to be included in workfare. Many of us would be very glad to work, but once you get over 55, you try and find a job. I am well qualified, I am well educated, I have worked for 23 years. I have been a taxpayer of this province very faithfully. At one point I thought I supported the province as a single person.

The effects on this age group are particularly devastating. It is a well-known and well-documented fact that low-income senior women have the least accessibility to health. One of the cruellest things that has happened is that, with the cuts in the health service, user fees are implemented. I know of five women who already cannot have operations because they cannot afford the \$60 operating room fee. These are all orthopaedic; they're not life-threatening operations.

There is a grave trouble with health. Senior women are really suffering in this way, the cuts in prescription fees and things like that. Many of them do have many medications. I agree there is a serious abuse of medication, I'm not fighting that and that is something I'm not qualified to talk on.

Seniors in this area are your steady and stable core, whether they be disabled or seniors. This is the stable core of your volunteers. Through these new negative cuts, we are losing our ability to volunteer because we lack access to transportation and many of the volunteer jobs will be offered to the workfare recipients, and yet this is what keeps seniors and many disabled people viable and able to be partakers of the community and gives them some form of self-empowerment.

The other thing is housing. With the new housing, what many people have expressed great fear on is this thing about putting liens on people's houses. Many in my age group are widowed and their house is probably their only financial asset. They are truly worried when they have to move into an old age home and have to sell their house that the payments they will have to make for their benefits will exclude them being able to pay for their old age, because many of the people do not have CPP because they have been homemakers.

I had a call recently from a 63-year-old lady recently widowed. Both her husband and herself had been on a senior's pension, the welfare pension, not the old age. He had died and she had been a homemaker all her life. She had never worked outside the home. She is devastated. She does not have a clue what to do. She was in such an emotional state I found some medical help for her.

This is the kind of fallout that you will be getting from these kind of cuts because people do not understand what is happening and they feel they are being punished and it's very serious.

The other thing is we have younger people in our group who have done all the things people have asked of them. They have received an education, have gone and got their education, have got degrees and still can't find a job or are doing Mickey Mouse jobs at McDonald's. One of them, who is a very bright young lady, said to me, "This isn't life, this is financial genocide." She has a degree, she cannot find a job and she has an education debt of \$24,000.

People would like to work very much. There are no jobs that are available, even when you have the training. Workfare is not going to be the answer because you're going to get lots of people whose expectations are going to be completely dashed, because once they have completed their training there is nothing to go for.

This goes all —

Mr Kormos: Ms Seaton, one moment. Mr Wood, this woman is talking to you. Please don't be preoccupied with your correspondence.

The Chair: Mr Kormos, you're out of order.

Mr Kormos: Mr Wood is out of order.

The Chair: Ms Seaton, please continue.

Ms Seaton: This is very serious and people are becoming very depressed and sullen. This was a country that was renowned for its peace, good government and justice. The greatest format of peace is social justice, and when one particular segment of society is discriminated against, social justice flies out of the window and you lose

your capacity to have a peaceful society. That is all I wish to say.

The Chair: Thank you very much, both of you. We have just over two minutes per caucus for questions, if you would be so kind as to entertain them. We begin with the Liberal critic.

Mrs Pupatello: Thank you for coming from Windsor. I'm sorry that we couldn't have hearings in my community. They're being boycotted, though, by the government members, and I feel badly about that. Fortunately, London is not too far, and I was very glad that you could come.

Mary, you asked a very interesting question of the government, as a 62-year-old trying to get into the workplace. I asked the minister this very same question. I had a 50-year-old gentleman come into the House that day, highly qualified, downsized from one of the big five banks, a big marketing job, was making very good money. He lost his job and over the last five years has been on contract work, eventually shed assets and is now on welfare, desperate for a job.

When I spoke with this man, I was comparing him to an individual in their early 60s and saying, "Here you have a 50-year-old highly qualified" — not that 60-year-olds aren't, but in this case he has recent employment history. He is desperate for work. No quirks, nothing obvious, no reason for him not to be working, and he's desperate for a job.

Then I think about these 60- to 64-years-olds in Windsor. I still have some from Windsor Bumper, when that plant closed years ago, new immigrants at that time when they started at Windsor Bumper, don't speaking English well, are illiterate, have never finished school because they worked there all their lives.

These are the typical, in-their-early-60s people who are going to be forced to go on workfare. They're supposed to be going to workfare for career training. I just think it doesn't make any sense. That really seems to be the argument for it not to be a mandatory program, because the minister's answer was, "I refuse to put them all in the same batch. Some do want to work," and therein was the answer, that it should be a non-mandatory program and, in particular, it's telling for those 60 to 64. Do you have any comments about that?

Ms Seaton: I think most seniors, like any other people, do not want to live in poverty and if they could find a job that would pay them and get them off, they would be more than happy. The trouble is that when you go to apply for a job — I have had it told to me to my face, "I would love to hire you but you have more experience than I have," this is the boss, "so I'm not going to hire you." You get to a point when you do have qualifications but because you've got to this wonderful age, you're supposed to be out at grass. You are well able. I may have a hip replacement but I am not a sick person and I can certainly be active, and hopefully one day will get a hip transplant.

It's an incredibly difficult thing to do. There is a vast number of people who have got lots of experience, who could really help but are being rejected, and it's a very difficult problem. Even if they could have a volunteer

process where they could be included, but under the new workfare it looks as if you can only work for a limited time as a volunteer at a certain section and then you have to move on.

Mr Kormos: Thank you, Ms Wilson and Ms Seaton. This bill is a very strange animal that creates two tiers of support. I've spoken to a lot of people with disabilities who fear that because of that high threshold to get on to appendix B they may have to effectively disable themselves if they're going to be able to access a higher level of support in the community. They don't want to do that. They want to expand their abilities and diminish the impact of their disability as much as possible.

One of the first things this government did was reduce social assistance rates by 21.6%, and the premise was that somehow if we make people poorer we can help them escape from the trap of poverty. It beats me all to hell. But shortly after that the government increased MPPs' salaries to the tune of 40%, by \$3 million a year. Then, as you know, the government just bought out MPPs' pensions to the tune of \$109 million.

Mr Peter L. Preston (Brant-Haldimand): Including Mr Kormos's.

Mr Kormos: Yes. Unfortunately, I'm not in the same million-dollar club as Mr Harris and it wasn't my legislation and I never advocated reducing social assistance rates by 22%.

1030

I'm wondering how much of the social assistance cut is being used to pay for MPPs' salary increases to the tune of 40%, the pension buyout. I spoke to some social assistance recipients in North Bay who said: "We'd be pleased to be bought out. Buy us out on the same terms as you bought out Mike Harris on the MPPs' pension."

When I see that Mike Harris has appointed Glen Wright chair of the Workers' Compensation Board, who spent \$70,000 redecorating his 1,000-square-foot office — where I come from you can have a 1,000-square-foot home for 70 grand that could have housed people in need of housing — back in 1996-97, I wonder how much of the cuts to the poor —

The Chair: Mr Kormos, do you have a question?

Mr Kormos: Yes, this is the question. How much of the cuts to the poor are subsidizing MPPs' pension buyout, MPPs' salaries and people like Glen Wright with \$70,000 office renovations? Do you have concerns about that? That was the question, Chair.

Ms Seaton: We certainly have concerns about our cuts and it's very true that the cuts made a dependency that wasn't there. Many women on mother's allowance never accessed a food bank, never accessed any of the volunteer organizations. Most mother's allowance people are the best budgeters in the world. If you really want to ask somebody how to budget, ask a mum on mother's allowance. She can make a dollar go six times further than anybody else. She knows how to. She also knows how to economize and when to buy.

When these cuts came, they had to access food banks. Not only did it really devastate their self-images, because

there's nothing as gruelling as having to go and ask for food for your children, it also cut their ability to have their self-esteem and go out and get some work, which they could have done.

Mr Carroll: Just to clarify a couple of points: Number one, all people currently receiving benefits under family benefits allowance because they are disabled or because of age will continue to receive benefits under the new program. There's no jeopardy for any of those people.

Ms Wilson: Is that guaranteed, what you just said?

Mr Carroll: Absolutely.

Ms Wilson: Absolutely everyone right now?

Mr Carroll: Absolutely guaranteed. Okay?

Second, despite what Mrs Pupatello may have told you, the VRS system is not being eliminated. What we are doing is moving to a system that will provide income supports rather than assessments and we're going to change the funding from \$18 million to \$35 million.

In the third area, the province is not planning to get out of the social housing business. We are transferring responsibility for it to the municipalities but we have an obligation, the federal government has an obligation to provide social housing. Absolutely no intention of getting out of the social housing business. We have an obligation to assist people with some housing needs. I don't know who has been giving you the information, but I appreciate the opportunity —

Mrs Pupatello: The minister has.

The Chair: Order, please.

Mr Carroll: I appreciate the opportunity to tell you the truth on some of those issues.

Ms Wilson: Mr Carroll, I'd like to correct you. We're not receiving our information from Sandra Pupatello other than documents that she's provided to us that come straight from the government in a photocopy sense. I think that's kind of unfair. We may know each other as Windsor residents, as we in Windsor are very happy to work with our government on each level, municipal, provincial and federal. We're a very friendly, happy community in that essence.

Mr Carroll: I used to live there; I know.

Ms Wilson: Just to clarify that for Sandra's benefit.

Mrs Pupatello: She ran against me in the last election.

Ms Wilson: We were opponents in the election, so this is how friendly we are. We are a very good community in that respect.

We are very concerned because we're getting this information directly from the government. The government has told us that not everyone on their disability is safe. It seems like in one section it sounds that way and when you come into another section of this information, it discusses it in a different sense.

Mrs Pupatello: Bring a tape recorder.

Ms Wilson: Right.

The Chair: Thank you, Ms Wilson.

Ms Wilson: Sorry, but the question was put to us about that. I fought for this for many years and I'll continue to fight. You have to be very careful in all of your wording and documents to make the wording accessible to all

people in this community because not all of us are lawyers. A lot of interpretation has to be made to clarify a document. That's really unfair to the public too, and I think that's a waste of public money as well. But this information we're getting is from your government and that is where the concern is. The social housing: Why are the projects in downtown Windsor being ripped out in a couple of years?

The Chair: Ms Wilson, if I may, you understand there are other people waiting. You have an offer from the parliamentary assistant to continue the discussion. I suggest you take him up on it.

Before you and Ms Seaton leave, I do want to say to you that the committee has given the Chair discretion to assist individuals with their travel to London or wherever we are and I've asked the clerk of the committee to speak to you so that you can be reimbursed for being here. That is available to all who are here. Thank you very much both for coming.

Mrs Pupatello: I have a question, Madam Chair.

The Chair: Before you do that, Mrs Pupatello, may I ask the consumer advisory councils of the Royal Ottawa Health Care Group, the Rehabilitation Centre, Cathy Kerr, to come forward. Mrs Pupatello.

Mrs Pupatello: My question is for the parliamentary assistant and/or the staff from the ministry, if I could have some clarification on the word "grandfathering" or "grandparenting" as it appears in the legislation. I would indicate that when someone is grandfathered into a system, it's usually meant to take an individual from a current system and grandfather them into a new system which is different.

If the system was the same, they wouldn't need to be grandfathered into it, which indicates that an individual who is born following this bill being passed and/or a situation arises following the bill being passed, you could have two individuals with the same disability, one qualified because they grandfathered, the other not qualified because they didn't get grandfathered because they didn't have the disability pre-Bill 142. If you could clarify the definition. There's no particular page in the binder that outlines that.

Mr Carroll: The definition is as Mrs Pupatello just reiterated it. If she would like us to consider not grandparenting people, we don't think that's the right approach.

Mrs Pupatello: Just one further clarification. What I would like is that they scrap the whole bill. Unfortunately, they aren't going to do that. But I do need more description because you can't suggest from my question that I don't want people grandfathered.

I'm suggesting that by grandfathering you are creating two classes of people: one with a disability severe enough to meet the criteria now; they are disabled, therefore they're grandfathered into the system because they are currently on disability. After Bill 142, if you're disabled to the same degree, you may not get over the bar because you weren't disabled enough pre-Bill 142 but you are after Bill 142, and therefore you won't get the pension.

The Chair: Mrs Papatello, Mr Carroll has given you an answer. He's not here to respond any further. I'd suggest we move on.

Mrs Boyd: On a point of order, Madam Chair: I would like, first of all, to thank the secretary of the committee for doing what she can to make this room accessible. But what we have here is a really serious situation where in order to move from that side of the room to this side of the room we have to walk between the interpreters for the hearing-impaired or deaf. There's very little room for wheelchairs to get through. This is a hearing that obviously was of specific interest to disabled people, and here we are, as a government organization, operating in circumstances which are relatively inaccessible.

Since we've already begun, I would suggest a brief recess while we readjust the room to suit the interpreters for the deaf and hard-of-hearing, to suit the access by people in wheelchairs. I think that could probably be accomplished in five or 10 minutes, but I would ask a recess at this point. It is not fair for people to be excluded in the way that they are being right now.

The Chair: I thank you, Mrs Boyd, for bringing that to my attention. I agree with your point. Mr Parker?

Mr John L. Parker (York East): Madam Chair, I've got to support the point made by my colleague from London. This is a very large room with a large number of chairs in it and most of those chairs are empty. It would be a simple matter to remove the empty chairs and create lots of room for people with wheelchairs and others.

The Chair: Thank you, Mr Parker. I think we have consensus. We will have a recess. Hopefully, it will be five or 10 minutes. We will call you back to order as soon as the room is ready. Thank you.

The committee recessed from 1040 to 1054.

The Chair: Ladies and gentlemen, thank you for your patience. I hope that the configuration of the room is now acceptable. I would grant that despite our best efforts, the room was not made ready for the audience we have here today.

REHABILITATION CENTRE CONSUMER ADVISORY COUNCIL

The Chair: We will now continue with the consumer advisory council. Ms Kerr, thank you very much for being here and for your patience. You have 20 minutes for your presentation following which, if there is any time, there will be some questions.

Ms Cathy Kerr: Thank you very much. My name is Cathy Kerr. I chair the consumer advisory council at the Rehabilitation Centre in Ottawa, and yes, I followed you to London.

The consumer advisory council consists of clients of the Rehabilitation Centre, all of whom have physical disabilities themselves or, in some cases — in fact two cases — are family members of people who have disabilities. It is entirely a voluntary organization and all of us are still at some stage in the rehabilitation process ourselves.

I want to thank the committee for the opportunity to make the presentation this morning on Bill 142. Yesterday in Ottawa you heard from Marie Loyer, who chairs the consumer advisory council at the Royal Ottawa Hospital. At that time, she presented a brief which was a joint brief and a clause-by-clause set of recommendations which had been compiled by the two advisory councils. She provided you with a perspective from the mental health and mental disabilities side. Today I hope to provide some perspective from the physical disabilities side.

I am not going to repeat the whole brief, but I am going to zero in a couple of the issues that are key matters of concern for our council and for people with disabilities in our community. Obviously the first concern, and it's been raised often here this morning and I am sure throughout your travels in the province, is the issue of the definition of disability. It's an issue of huge concern to people with physical disabilities as well as mental disabilities. It's a matter of concern because it relies on a level-of-care definition of disability which is the kind of definition which is normally used to determine whether a person requires nursing home care or chronic care, but is not a definition that is appropriately used to determine whether or not a person needs income support.

Let me give you an example of how that definition doesn't work. I struggled to come up with an example that would show how it doesn't work and why we have such concerns. One of the highest-profile examples of this in recent months has been Christopher Reeve. There's somebody who has, everyone would acknowledge, very serious disabilities. He can't breathe on his own. He cannot look after himself in terms of activities of daily living for personal care. He cannot function in the community independently. He cannot function without a highly modified employment setting. Yet he's working.

The definition doesn't work both ways, in that people who can look after themselves may not necessarily be able to work, and people who cannot take care of their activities of personal care may in fact be able to work, because the definition doesn't really deal with the issues that are central to determining why somebody is able to work. Surely those issues are matters of whether or not the person has education, skill and an opportunity to project those qualifications around, and notwithstanding, their disability, whether the person can find employment in a modified employment setting which allows the person to bring forward the things they can do and compensate for the things they can't do. Those are the kinds of issues that go into determining whether a person is able to work.

We would suggest to you that the appropriate criteria for determining whether somebody needs income support are really just three things: whether they are able to get a job and make an income or have an income from some other source; whether they are able to sustain an income; and whether that income is adequate enough to make them self-supporting including in some cases — in many cases — the extraordinary costs that are involved in dealing with a particular disability.

We have made a suggestion in our clause-by-clause reference of a revised definition of disability. I know we've heard some references this morning to changing "and" and "or" in the act. I guess my reaction to that is it's a little bit like having somebody who is in trouble out in the water and you're deciding whether you will throw them a bucket of bricks, a concrete block and/or an anchor. Let me suggest to you that the definition needs a flotation device and that people with disabilities are just looking for an opportunity to bring forward what they can do and they need a definition that will allow them to do that.

The eligibility process is another area that is of particular concern to us. Quite specifically, I am going to begin by zeroing in on the exclusion in subsection 4(2). That's the infamous clause that refers to ingesting "alcohol, a drug or some other chemically active substance." We believe that to be totally discriminatory. It fails to recognize abuse, and if it were only going to deal with the issue of abuse, it would still be discriminatory because it fails to recognize abuse as both a physical dependency and a mental illness.

1100

But it goes much beyond the issue of abuse. What immediately comes to mind when you look at that clause are kids and the marvellous places kids can get into that they're not supposed to. How many people have kids and have spent hours in the emergency department getting the child's stomach pumped because they got in under the sink, they got into mom and dad's medicine cabinet, they got into the garage into some toxic substances? These are all things that would be of concern. Sometimes it works just to pump the stomach and everything's fine. Other times you can have a very toxic reaction to that kind of experience and it can leave long-term serious consequences for a child. We don't believe it was the intention of the legislation to cause problems for those children, but the way that clause is drafted it is a matter of concern.

It's also a matter of concern for children who are born with foetal alcohol syndrome, crack babies and others who may have ingested this substance through no choice of their own. Again we would say that it's even discriminatory if it just proposes to deal with the abuse. The clause doesn't distinguish between abusing a substance or simply using it. It doesn't distinguish between legal substances and illegal substances. Please reconsider your position. Stand down from this proposal and delete the clause.

I come to you, and there's no small irony in me sitting here today before you making this recommendation, because I have my physical disabilities and I have spent the last eight and half years in rehabilitation courtesy of an impaired driver. I can tell you, when I feel there's a need not to discriminate against people who have consumed alcohol, it's because I have very carefully considered the issue.

We have concerns about the whole provision of loanlike liens on assets, income — present and future — and we're very concerned that this will increase dependency of people with disabilities on publicly funded

programs and will discourage and frustrate the attempts of family members to do what they can to provide for the future care arrangements of children with disabilities or other dependants.

We have to look at the dependant issue going both ways, because many families are going to have dependent parents with disabilities as we enter into a society where we have an ever-aging population, and therefore the longer we live the more vulnerable to life-altering disabilities we are as we go through life.

We're concerned about the gap between the definition of disability for income support and the eligibility for employment supports, and that gap has to be bridged in the act. We would suggest that the employment supports also have to address non-vocational supports, things for volunteer work. There are some very important skills that can be acquired, experiences that can serve people well in their life experience and down the road in terms of employment eligibility by working as a volunteer in the community, but it may require some supports. They may have to work in a specially designed work environment, like many people with developmental disabilities have to do. They may have to work part-time to begin the process again of attaching some part of their skills to the labour force and building on that. It's not clear that the legislation is dealing with all of those aspects of the employment market for the purpose of providing employment supports.

We are most concerned about those who will not meet the definition and who will fall into workfare, reminding ourselves that we are not dealing with a program that deals with all people with disabilities. We are dealing with a program that deals with people with disabilities who need income support and those are people with disabilities already living in poverty. They are already challenged by the many additional costs that are involved in sustaining their quality of life in the context of their disabilities.

That brings me into the whole issue of extended health care benefits. We know that if adequate extended health care benefits are not available to people with physical disabilities, and mental disabilities as well, those can increase the impact of the disability and they can become in and of themselves a further employment barrier.

We know that most jobs in the private sector are generated by small and medium-sized business and we know those are the businesses that are least able to afford adapting the workplace and coming up with employment benefit packages that would adequately meet the need of a person with disabilities who has large and regular cost factors in their daily lives.

We would encourage you to look at ways to enhance the attachment of people to the labour market and keep people who are already in the labour market working, not force them out of their jobs because of social assistance considerations and health benefits.

The appeal process and the qualification process: I guess the best way to sum it up is we would simply say it is demeaning. It is positively invasive and we're trying to figure out why. We haven't heard anyone suggest that there's been any degree of abuse on the part of people with disabilities in the social assistance programs that

exist now. We've heard the programs aren't perfect, and everyone acknowledges they need refinement, but we haven't heard of any incidents of demonstrated abuse.

We're asking, why do we have to have an invasive process? Why do we have to have a process that sets a different standard for people with disabilities than we would accept in the community in general — fingerprinting, search powers. Let's leave the policing powers with the police. Fraud is fraud, and if there's a reasonable suspicion of fraud, the police can be brought in. Others don't have to be given those powers. At least if the powers are left with the police, so are the safeguards there to protect the community against the abuse of those powers. This legislation only transfers the powers, it doesn't transfer the safeguards. We would encourage you again to leave the policing to the police and to leave the social policy to the administrators of social policy. Where there's a need to involve one with the other, involve those who are competent in the field to come in and do their job.

The regulatory provisions are not obviously specified at this point. We regret they're not part of the discussion, but we would encourage the government when developing those regulatory provisions to engage in a further consultation process so that we can ensure that the special needs of the client groups that are being addressed in this legislation are evident in the processes that are put in place, the time frames and deadlines that are put in place and required for the act, so that we don't get a situation of good intentions, like we did this morning, where we have to adjourn the process of implementing the act because good intentions didn't translate into a sensitivity to real needs.

The last thing is on the appeal process. Really for any appeal process to be legitimate it has to be operating at arm's length. You can't have the appeal process reporting to the people who are making the decisions. It just doesn't work. It doesn't have credibility. It puts the claimants at an unusual disadvantage.

We would encourage you to extend the appeal process. As the legislation is currently drafted, the appeal process does not extend to the issue of employment supports. Clearly someone who is denied access to employment supports should have the right to appeal. We find it amusing and offensive in the act that there would be any suggestion that any appeal on any matter of fundamental income support for people with disabilities could ever be considered frivolous and vexatious. Please. This is about how people keep a roof over their head and food on the table.

I end simply by leaving you a thought. In 1998 we celebrate the 50th anniversary of the Universal Declaration of Human Rights. Please, let's have the courage to amend this legislation so that we see in practice those principles that we as a people have undertaken to uphold. Thank you for your time.

The Chair: Thank you very much, Ms Kerr. We have about one minute per caucus. That allows for very short questions. We begin with the government caucus.

Mr Carroll: Thank you very much for your presentation. Because we only have a minute, on the dispute

resolution process for the employment supports, the act states under subsection 36(3), "Each service coordinator shall establish a dispute resolution process for the purposes of subsection (2)," which has to deal with decisions. The minister has stated that this must be an arm's-length dispute resolution process.

Ms Kerr: We were referring to the overall appeal process in the act and the fact that the appeal processes for the income support and employment supports are not linked and not linked in an arm's-length way.

1110

Mrs Papatello: I would caution the parliamentary assistant that what the minister states and what is in the act are two very different things. The minister also stated that she would spend \$40 million in child care and put it in the budget, yet didn't spend a dime of it. What the minister states and what is in the act we are discussing are two very different things.

Thank you so much for coming down from Ottawa. I'm sorry you were so inconvenienced, that we couldn't book all the Ottawa people in Ottawa, having been there yesterday. We found Ottawa people in North Bay too. The government insisted on going to North Bay, yet of the entire day only 10 groups actually came from North Bay; the rest came from everywhere else. It was quite sad.

The issue you described right at the beginning of your presentation was that the issue really is, is there a job to find for the individual, with the various issues that individual faces? Is that any different for an individual without disabilities?

Ms Kerr: I would say the principle is the same. What is different is that a person with disabilities usually has to go the extra step and find somebody who can bankroll the adaptation of the workplace to allow them to function in the workplace in the most effective way that will allow their skills to come forward and what they can do to be emphasized, as opposed to the limiting factors of their disabilities.

Mrs Boyd: Thank you very much for your presentation. I'm very interested in the issue you raise around the extended health insurance, because of course that is a huge concern, particularly for people who would be deemed to have a pre-existing condition, which you didn't mention. It is one thing if you acquire your disability after you've been employed, but if it is seen to be something which was a pre-existing condition, you're just completely out of luck when it comes to extended health care benefits.

Ms Kerr: Which covers all congenital conditions.

Mrs Boyd: That's right, not to mention conditions that may not yet have manifested themselves and are seen subsequently to have occurred. So you're suggesting that the act should actually spell out an access to extended health care benefits for people who are eligible, whether or not they need to access those benefits at any particular time?

Ms Kerr: And whether or not they are on income support, because by virtue of not meeting the definition of income support, they may still have substantial disabilities

which would prevent them from accessing group health care benefits.

Mrs Boyd: And it's not just Trillium, for example; it's those other extended health care benefits that people rely on.

The Chair: Thank you, Ms Kerr, for coming such a long way to make your presentation. Thank you for your comments.

I call the Canadian Hearing Society, London region, to come forward. As the Canadian Hearing Society comes forward, I'd like to acknowledge the presence here today of two signers provided by the Canadian Hearing Society. We're very grateful to them. They've been interpreting or signing for us all morning and will continue to do so. I want to acknowledge Erika Tipping and Lorna Schuster for their services. We thank them very much.

Mrs Papatello: Chair, if I may have a question put to the table for potentially the ministry staff and/or the parliamentary assistant, it relates to the presentation we had earlier with Chief Bressette. The indication of the parliamentary assistant to the last tabled question was that the government is now in negotiations with first nations in regard to the social assistance reforms. Our indication from the chief is that there are no such negotiations under way; he has since confirmed that with all the other first nations chiefs in all the other regions. If I could get clarification, the parliamentary assistant clearly believes there are some negotiations going on, so there must be some somewhere, but both the chief and I would like to know what status they're at and who the negotiations are with, if in fact they're not with the chiefs.

Mr Carroll: I'll have to let Ms Papatello know.

Mr Kormos: Chair, on a point of order, and I hope there is consensus on this and that people join me on this point of order: I couldn't think of a — there was no good time to raise it. Here we are at the Westin, dealing with Bill 142, and I'm confident that the taxpayer is paying a good chunk of money for the rental of this meeting space. We find ourselves in the deepest bowels of the building. We find ourselves in a pretty inaccessible space, quite frankly. Ms Boyd, in her point of order — everybody was concerned about the seating arrangements and accessibility and accommodating deaf people and interpreters and accommodating people in wheelchairs. In my painful search for the men's room, which fortunately was successful —

Mrs Papatello: Thank goodness for us too.

Mr Kormos: — I didn't encounter the women's room, but I perhaps would have used it had I found it before the men's room. But the fact is that there are really bad accommodations here. The men's room doesn't appear very accessible to people in chairs and so on. Darn it, the clerk staff obviously — and please, the Queen's Park staff and the clerk's staff and the committee staff work hard setting up these accommodations, and it's difficult.

But these hotels, if they expect to have this continued business, had better start becoming a little more sensitive to the needs of the community who are attending these hearings, darn it, especially in the context of 142, when

we know there are going to be persons from the community with disabilities who are going to have an active interest. I hope there's some way we can put the Westin and others on notice that they'd better be a little more interested in and concerned about accessibility and appropriate accommodations if they expect continued business.

The Chair: Mr Kormos, thank you very much for your comments. I want to assure you that the clerk had in fact given very specific instructions with respect to this hearing. We are very conscious that this is a bill about disability and that accessibility has to be foremost in our mind. We've had a number of delays this morning because the room was not accessible. We will express our dissatisfaction with the hotel in the way this particular legislation and this particular group of people have been treated.

Mr Kormos: Thank you, ma'am.

CANADIAN HEARING SOCIETY, LONDON REGION

The Chair: The Canadian Hearing Society.

Ms Marilyn Reid: Hi. I'm Marilyn Reid. I'm the regional director of the Canadian Hearing Society here in London. I'm here with our chair, Jeanine Van Koot. I guess we're very fortunate that we are from London and didn't have to travel far. We have a brief presentation. I will let Jeanine start off.

Ms Jeanine Van Koot: For the past 57 years, the Canadian Hearing Society, CHS, a non-profit charitable organization, has provided a wide range of direct services to deaf, deafened and hard-of-hearing people, including advocating for their interests and promoting their rights. CHS itself has 21 offices across Ontario. CHS has prepared this brief to assist the Ontario government and the Ontario Legislature in its deliberations on Bill 142, the proposed Social Assistance Reform Act, 1997.

At the end of this brief we will address the Supreme Court's recent decision regarding sign language interpreters in a medical situation and how this decision will impact Bill 142 and other legislation to ensure access for people with disabilities.

The Canadian Hearing Society is pleased to support the intent of the proposed Ontario Disability Support Program Act announced by the Honourable Janet Ecker, Minister of Community and Social Services. The government has listened attentively to deaf, deafened and hard-of-hearing consumers and to Canadian Hearing Society service providers, and as a result has accepted some of our concerns. However, there are outstanding issues which require further study, clarification and/or incorporation into the act by the government.

Some highlights of the proposed program that the Canadian Hearing Society supports are:

No financial penalty if efforts at employment do not succeed.

Expenditures in supports to employment to almost double, from \$18 million today to \$35 million upon implementation.

The elimination of unnecessary medical assessment testing and other types of assessments.

The elimination of the 25% copayment for the cost of assistive devices.

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Ms Reid: While there are some facets of the act that we support, we also have some serious concerns about the new legislation. As some of my predecessors have commented on, these include:

The potential restrictions in eligibility for the Ontario disability support plan, the income support benefits and supports to employment due to the new definition of disability. I think that needs to be carefully examined.

The fact that there is no provision for costs of accommodation services, such as sign language interpreters and computerized notetakers, not only for the interviews, hearings and appeals to determine eligibility but also to receive services from the ODSP programs.

There is a lack of clarity that verification of eligibility should be done by a person with the prescribed qualifications for determining a functional loss and the fact that functional loss doesn't always necessarily come from a medical perspective. There's the impact of the disability on a person and, looking at our consumer groups, on a person's ability to communicate their social and vocational situations, and whether or not the individual is versed in the issues that affect deaf, deafened and hard-of-hearing consumers.

With the repeal of the current legislation that's committed to funding post-secondary students with disabilities for our deaf, deafened and hard-of-hearing clients, there is concern around the disability-related supports that our consumers require to access post-secondary education.

There is also an inherent misperception that mainstream service providers can be accessed through competitively selected local service coordinators, which is what's being promoted in the act, and whether or not those local service coordinators, who are generic coordinators in a community, would be, first of all, accessible, and second of all, truly able to meet the needs of deaf, deafened and hard-of-hearing people in terms of even office staff when a deaf, deafened or hard-of-hearing person comes into the office. Will they have office staff who are proficient in sign language and able to communicate with that client when they come in?

There is clearly uncertainty about VRS supports and what will be continuing with that in terms of funding for our consumer groups. Speaking as an individual who has worked in the field for a number of years, I can tell you that VRS has been a very important factor in supporting a number of individuals in pursuing post-secondary education. The fact that there are no university or college programs in Ontario or in Canada means many of our consumers have to travel to the States to receive education that is fully accessible.

The need for complementary legislation: The Ontarians with Disabilities Act is certainly an important piece of legislation. There's a need to have complementary legislation to ODSP to ensure the success of ODSP and to

ensure that the Ministry of Education and Training provides comparable access services for post-secondary students out of province.

We also have some questions regarding the ODSP, and I'll turn this over to Jeanine for that.

Ms Van Koot: When will your ministry release detailed eligibility criteria for the public to review?

How will deaf, deafened and hard-of-hearing students apply for the top-up? If students do not qualify for a Canada student loan because of parental income, will they then be ineligible for the top-up funds as well?

What are the standards to ensure equal access for deaf post-secondary students with their hearing counterparts? What is the transition plan? How will the transfer be implemented to ODSP to ensure that students and other VRS consumers get the support they need or request within an effective time frame?

Will the Ministry of Education and Training now fund literacy training programs and individual tutors at private clinics or will deaf, deafened and hard-of-hearing students still be able to access supports through the service coordinators?

Will deaf, deafened and hard-of-hearing students with these high-level needs be accommodated through MET or will they be able to access the supports for deaf, deafened and hard-of-hearing students through the service coordinators?

Will your government assure that local service coordinators reduce the backlog problem by providing appropriate supports and training dollars?

There needs to be recognition that quality employment services include aspects of counselling, for example, career guidance, market research analysis etc, that are essential to ensure consumer satisfaction and government savings over the long term.

The act, Bill 142, needs to clearly state that sign language interpreting, computerized notetaking and specialized communication devices will be provided as part of the provision of income support or employment services.

Furthermore, responsibilities for payment of accommodation services must be clearly delineated among government, private sector service providers and/or employers. The establishment of an accommodation fund would allow partners to contribute their fair share and have funding readily available so that a consumer is never denied service because of communication inaccessibility.

In terms of determining eligibility for ODSP — income supports, benefits and supports to employment — the client's or consumer's request should be accepted where the disability can be easily substantiated. For example, audiological reports and grade reports from the provincial school for the deaf that the individual attended should serve as methods for determining a disability.

Ms Reid: In terms of recommendations, we recommend that eligibility criteria for local service coordinators include an expectation that specialized services be provided through a contract or purchase-of-service agreement between an agency such as CHS and the service coordinator. The reason for this is that we feel

CHS has the best expertise in this field. This would ensure that services are offered in an accessible environment by staff who have sensitivity to and understanding of the needs of deaf, deafened and hard-of-hearing consumers. This would ease our consumers' very deep concerns, especially if the service coordinator determining eligibility comes from the for-profit sector, which presumably could happen in a competitive process.

We further recommend that the Minister of Community and Social Services work with the Minister of Citizenship to have the Ontarians with Disabilities Act passed. This would strengthen the ODSP supports to employment and improve outcomes of the local service coordinators.

CHS recommends that the Minister of Community and Social Services also work with the ministers of Citizenship and Education and Training to include legislative commitments in the Ontarians with Disabilities Act that would fund post-secondary disability-related supports and also one-to-one tutoring and literacy training programs.

Ms Van Koot: The Canadian Hearing Society is pleased to support the intent of Bill 142, the Social Assistance Reform Act, and also the proposed Ontarians with Disabilities Act at a later time. Deaf, deafened and hard-of-hearing consumers value the specialized services such as those provided by the Canadian Hearing Society. They believe that CHS is best equipped to act as their service coordinator because of the agency's expertise in meeting their communication needs. CHS has specially trained counsellors and other staff who can communicate directly with consumers. In addition, some staff are themselves deaf, deafened and hard-of-hearing consumers who have experienced the difficulty of conducting a job search and know the barriers that must be overcome.

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Furthermore, new barriers such as technology, physical work environment and contract work make it more difficult for deaf, deafened and hard-of-hearing people to be trained, hired and promoted on the basis of individual merit.

The Canadian Hearing Society is supporting Bill 142, the proposed Social Assistance Reform Act, 1997, with some reservations. CHS wants the issues outlined in this paper to be addressed before the Ontario government passes Bill 142. Furthermore, passing Bill 142 on its own is not sufficient. It is essential that this government draft and pass the ODA bill to ensure comprehensive employment services and opportunities are available.

It is important to note that on October 9, 1997, the Supreme Court of Canada ruled unanimously that the failure to provide sign language interpreting services where needed for effective communication in the delivery of health care services violates the rights of deaf persons. The ruling further states that governments cannot escape their constitutional obligations by passing on the responsibility for policy implementation to private entities not directly under the Charter of Rights jurisdiction.

This decision reaches far beyond the deaf community and will touch every Canadian who has a disability. The court has made the equality guarantees in the Charter of

Rights real. Businesses, hospitals, community facilities, are all affected by this landmark decision. This decision requires the removal of barriers that prohibit full participation of persons with disabilities. The provincial government will need to ensure Bill 142 and a subsequent ODA are consistent with the Supreme Court's decision.

The Chair: Thank you both very much, Ms Reid and Ms Van Koot. Unfortunately there will not be any time for questions. We do appreciate that you're here. We are especially grateful for the ability to have your signers for the remainder of the day.

LIFE*SPIN

NEIGHBOURHOOD LEGAL SERVICES

The Chair: May I call on LIFE*SPIN, Jacqueline Thompson and Andrew Bolter. Welcome to our committee hearings. I note that there are three of you. Perhaps, Ms Thompson, you might present your co-presenters. You then will have 20 minutes for your presentation.

Ms Jacqueline Thompson: My name is Jacqueline Thompson. I'm the executive director of LIFE*SPIN. I'm joined today by our director of community development programs and mediation services, Andrew Bolter. As well, we have decided to share our time with Michael Laliberte from Neighbourhood Legal Services, one of the 43 organizations that were denied the opportunity to present here today at the London hearings.

Mr Andrew Bolter: LIFE*SPIN is a community-based, non-profit organization. It started out as a group of sole-support parents who came together to share information on how to survive poverty. We have a board of directors that's made up of 60% low-income people. We are a front-line clinic dealing directly with London's poor, both the working poor and those on social assistance. We provide information, we mediate, we advocate, and we save the city and the province hundreds of thousands of dollars each year because we prevent problems from escalating through intervention and resolution at an early stage. We are also looking at long-term solutions through community economic development initiatives in housing, food security, day care and other priority needs defined for us by low-income people in our community.

This agency, like others, is overwhelmed by the numbers of those in need and by the increasing severity of the problems. We have many homeless people in London, many people living without hydro and without sufficient food. Poverty is cutting deeper and becoming more dangerous as the supports that were in place are disappearing.

Ms Thompson: I have with me today a story from a low-income person. A lot of what we deal with at LIFE*SPIN concerns how policies and legislation impact on people. Part of our presentation today would have been passed around. It's entitled Ontario Works Legislation, Bill 142 — Legislated Poverty for Women. It looks at some of the overlapping policies in legislation that also impact particularly on women in the community in terms

of Bill 142, but I will leave that to you to read. The story is:

"I live in a large Ontario city. It is supposed to have pretty progressive welfare policies compared to many other places, but there are still plenty of frustrations, hassles and fear for a single mother trying to make a life for her children. I went back to school in a cooperative program. I was lucky enough to get a placement at the same day care centre that my two children attend. After the student placement was over, the day care centre offered me a job there. It seemed like wonderful luck. I wouldn't have to bring my children to day care and then go halfway across the city to get a job. However, my troubles were just beginning.

"First, now that I had earnings, my welfare cheque was always late. I would send in my pay stubs, but it took them a long time to figure out my benefits. Then I had to pay fees for the child care because I now had earnings. Even though I had a day care subsidy, I had to pay a partial fee, but my welfare worker refused to allow a deduction for these fees, even though the law states that child care fees are deductible from employment income.

"I had to keep going back between the subsidy people and welfare. Finally, I had to get a legal worker to appeal this. My welfare worker said that if I was having so much trouble paying day care fees out of my earnings, maybe I should just quit work.

"One time I accidentally sent in a pay stub for the wrong time period. My worker didn't phone me to let me know of the mistake. She just held my cheque. When I didn't get my assistance, I called. She promised that if I got the right pay stub to her, she would send out the cheque right away, but she didn't. Again, she didn't call me to let me know there was another problem.

"After waiting a few days and then trying unsuccessfully to reach her, I finally had a politician's office call her. Then she said the cheque was still being held because when I had spoken to her before I hadn't said how badly I needed the money. I was even being threatened with eviction. So now she was holding my cheque because I was being evicted. She needed to hear from me whether I was moving or staying. I was evicted and I also lost my job, partly because of all the time I had to take off to deal with welfare and the eviction process.

"Eventually, almost a year after I appealed the fact that they didn't give me a deduction for day care fees, I got my money back."

Mr Bolter: We came here today in an attempt to educate the current government. It is difficult to sit here before you all for many reasons. We question a process where only a fraction of those who wish to give a submission are permitted to do so and many, including those with disabilities, were not permitted standing in their own communities, even though those communities were granted hearings. We question a process where a government is giving itself the power to make fundamental decisions by order in council, behind closed doors and without legislative or public scrutiny, by regulation. We have none of those regulations before us for comment. But

we won't be silenced either by process or an ever-increasing sense of futility. We will speak for our clients and our community because we know about what we're speaking.

There is so much wrong with Bill 142 that we can not begin to address it in 20 minutes. The whole thing is fundamentally flawed, because it is based on assumptions that have nothing to do with the economic and social reality of this province. These assumptions are (1) that there are real jobs out there to be had, (2) that many people prefer to collect welfare than to work in real jobs, and (3) that there is a large amount of welfare fraud in this province.

The biggest welfare fraud in this province is being perpetrated by the Harris government in its propaganda war against social assistance recipients. This government is giving more money and power to fraud investigation departments. You set up a welfare fraud hotline, the infamous snitch line, in which citizens of this province can report on their friends and neighbours and family members who are allegedly scamming millions from the social assistance system.

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Police departments, hoping no doubt to appear effective, have been part of the orchestrated media events where alleged welfare defrauders are rounded up like members of drug rings in high-publicity sting operations. The headlines are sensational and boast of large amounts of money saved, but give no detail of the reality behind each case and the outcomes of further investigation. What the public does not hear is that most of these cases turn out not to be fraud but rather honest mistakes and/or the result of administrative errors by the social assistance administrations.

A press release by the Ministry of Community and Social Services, dated April 1997, reveals the transparency of the government's hypocrisy. The report pretends to provide statistical evidence that there has been a huge success rate in clamping down on welfare fraud and it brags that the anti-fraud actions have resulted in a social assistance caseload decline of 200,000, thereby saving taxpayers huge amounts of money.

We ask ourselves what is the real reason for the decline in numbers. We know that women are going back to abusive relationships or simply giving up. Many people are worn down by their dealings with social service staff. They disappear and they're giving up.

What have the results of the welfare hotline been? If the government's own propaganda is to be believed, there should be hundreds of people going to jail each month for welfare fraud. The fraud hotline received — and this is the government's own press release — 27,801 calls between October 1995 and November 1996. Of these calls, 18,655 were allegations of fraud and were referred to local social assistance offices for further investigation. Of these, 12,429, or 66%, of the cases revealed no fraud or error; 4,959, or 26.6%, of the cases required further investigation; resulting in 1,267 cases. Of the 1,267 cases, 32 were referred to the crown for potential criminal pro-

secution for fraud. The crown considered that 18 of these cases merited prosecution, and of these there was a grand total of nine people convicted of fraud. This represents 0.03% of the calls to the fraud hotline. Of the nine convictions, one wonders how many lawyers advised their clients to plead guilty because there is a financial disincentive in the legal aid system to take these cases to trial.

So 27,801 calls and nine convictions. We challenge this government to produce statistically valid evidence that there is the massive fraud in the system that they are saying exists. It does not exist. Fraud is not a problem and to portray it as such is a demonization of the poor for political ends.

We note that the Harris government also wishes to fingerprint every social assistance recipient as if they were criminals and have them perform community service as if they had been convicted. They are not even given in the legislation the right to appeal the sentence of forced community service if they or their children become ill.

The cuts to welfare have created hardship and misery for thousands of people who through no fault of their own cannot find work. People in London are homeless or they are going without hydro and without phones. Parents are choosing to go without meals so their children can eat. Single mothers are remaining in or are returning to abusive relationships because they cannot provide for themselves or their children while on social assistance. Women are walking around with towels between their legs because they cannot afford sanitary napkins.

The jobs are not there. We have hundreds of people in our community lining up for hours in advance for minimum wage jobs. In March 1997, Alcan Aluminum received 30,000 applications for 50 new job openings. There are 1.5 million people officially looking for work, but only 186,000 jobs were created in 1996, primarily in the part-time and low-wage service industry. It takes 200,000 new jobs each year just to keep up with population growth.

The fact is that most poor people do work full- or part-time. According to the National Council on Welfare, 60% of those heading poor families work and over 70% of poor single people work. Of those dependent on social assistance, 37% are children — we can't expect them to work surely — 16% are single mothers, many of whom are working full-time and caring for young children, and 24% of welfare cases are headed by people who are considered to be disabled. Surely we don't want them to work if they cannot manage to.

This government's misinformation about social assistance recipients is reminiscent of hate propaganda, which is a criminal offence. The government's abuse of victims of failed government economic policies must stop. In order to proactively face the economic challenges of this province's future, you will have to begin to govern with the facts and reality rather than enacting senseless, demeaning and harmful policies that hinder both our economic viability and the health of our communities and our children.

Mr Michael Laliberte: My name's Michael Laliberte. I'm a staff lawyer at Neighbourhood Legal Services. We assist people who have problems with welfare and family benefits. We assist them in their appeals.

We have many, many concerns with the Ontario Works legislation. The extent of our concerns is a problem because the regulations are not available. The regulations contain the meat and bones. We don't know the meat and bones of this legislation and the extent of the regulations and how they're going to affect people. I question a process where we're asked to comment on the legislation when the major parts are not known.

Secondly with respect to the process, we're having hearings on two major pieces of legislation at the same time and I think the Ontario Works legislation is being overlooked today. If we look at the list, there are many concerns from the disabled community that are being addressed, but the Ontario Works legislation is not given a full and fair hearing.

I only have a limited time, so I'd like to deal with the appeal process because that is what we do at the clinic on a regular basis. I'd just like to state that the proposed appeal process and what can be appealed needs to be overhauled drastically. A good starting point would be to maintain and enhance the current appeal process. An individual needs a strong appeal process and rights when it comes to basic needs. The appeal process needs to include the following.

(1) The recipient has a right to appeal to the appeal board and request interim assistance while an internal appeal is ongoing. Subsection 27(1) of the OWA should be deleted.

(2) My experience on a regular basis is that there are untimely delays in obtaining decisions from the welfare office and family benefits office. There should be a strict time limit that the welfare administrator be required to follow with respect to internal appeal decisions.

(3) The appeal board should maintain the powers that the current board has, including the right to interpret the legislation and regulations. The appeal board should not be required to adopt ministry policy as law.

(4) Subsection 26(2) of the OWA should be deleted in its entirety. Specifically, a recipient should be allowed to appeal a pay-direct decision or an appointment of a trustee. Paragraphs 6 and 8 of subsection 26(2) should be deleted as they are too broad.

(5) Clause 34(1)(a) should be deleted. Currently, an appellant is not required to file information after filing an appeal notice. This section, which is to be detailed in the regulations, would be a large impediment for many appellants.

(6) The tribunal members should not be political appointments. There needs to be a system implemented that ensures the tribunal members are fair, independent, knowledgeable and properly trained.

(7) Finally, interim assistance should not be recovered as this would be a large deterrent for individuals who want to appeal. Thank you.

The Chair: Thank you all very much for being here. We have one minute per caucus per question. We begin with the official opposition.

Mrs Papatello: Thanks for coming today and we appreciate the comments that you've made. We share many of the same concerns, most likely all of the same concerns. Legal aid — I guess I never thought of this before, but so much of your work deals with the appeal process. If they take away the right to appeal on so many cases, you won't have any work to do.

Mr Laliberte: I don't think so. In many of the cases we deal with, we have many, many people on welfare or family benefits who are having problems getting their cheques released, or they're on hold for some reason. There is presently an internal appeal process. Many of the cases that we work on are settled at that stage, but in many other instances we need to file an appeal. Right now, we're allowed to do the internal appeal at the same time as filing an appeal because our experience —

Mrs Papatello: Just before I run out of time, I did want you to comment on — the point is there are so many actions by the government in so many different ways that have impacted on the work you see at your door. In fact, there are a number of people out there who need legal representation and simply don't get it because you have been forced to be very stringent in the kinds of cases you can take. This ironically makes your job easier. If they can't launch an appeal anyway, you still have just a slew of people frankly, because there have been so many cutbacks in this area.

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Mr Kormos: Thank you particularly for addressing this issue of the vilification of the poor, the war on the poor rather than the war on poverty. I remember the 1995 election — oh, I remember it well — and I remember what was being said in communities across this province as part of the Conservative campaign about the poor and about social assistance recipients. It was with language that I won't repeat because it was language that was racist and sexist, and that's probably enough said about the types of messages that were being conveyed.

What's fascinating is that we had a crisis in this province and country a couple of weeks ago that the federal government did respond to. Unemployment stood a chance of dropping below 9% and that was considered a crisis. So the federal government and the Bank of Canada increased interest rates to avoid unemployment dropping below 9%. Interestingly, yesterday one of the multifaceted presenters talked about the stats, be it 1% to 3% of persons applying or receiving social assistance committing fraud. They contrasted it with the estimates of income tax fraud, which are, minimum, 10%, and undoubtedly far bigger dollars, yet that hasn't generated the same sort of vicious attack as the prospect or the possibility of welfare fraud. Indeed, the Premier a year or so ago dismissed tax fraud, saying: "Gosh, it's human nature. What can you do, guys?"

I appreciate your comments about the vilification of the poor. I think it's incredibly important that you and others

like you have been very successful in this very brief period of hearings.

Mr Carroll: Thank you for your presentation, folks. I have a question for Mr Laliberte. You say that in your opinion there should be a strict time limit placed on any internal review process. Can you give me something more definitive by what you mean by "strict"? Can you give me a number of days, weeks, how long you think that process should take before it has to come to a decision?

Mr Laliberte: It should be as small as possible. I would say if a decision is made and the recipient provides further information, the decision should be made in a day or two. Right now, what happens is we provide information. We send it by fax. We follow up by telephone messages. Sometimes it's a week, two weeks, before we get an answer. Right now, we have the ability to file an appeal to the appeal board as a safeguard to protect their interest just in case the answer is still no.

Mr Carroll: So you're saying something less than a week for sure?

Mr Laliberte: Yes.

The Chair: Thank you very much to all of you for being here today. We really do appreciate your intervention.

LEGAL ASSISTANCE OF WINDSOR

The Chair: Legal Assistance of Windsor, Marion Overholt. Welcome to the committee.

Ms Marion Overholt: Legal Assistance of Windsor is a poverty law clinic that has served low-income clients for 27 years in the city of Windsor. I have worked at Legal Assistance of Windsor as a staff lawyer for the last 10 years in the area of social welfare law. Our community was most anxious for this committee to come to Windsor, and I appreciate the opportunity to appear before you this day as this legislation is of vital concern to our clients and the community at large.

In our opinion, this act is basically a gamble. You are enacting provisions and requirements that are untested in this jurisdiction. Your minister says the goals are fairness, effectiveness and accountability. Therefore, your legislation should not only contain provisions to measure the success or failure of these goals, but as well contain internal checks and balances to ensure the implementation and application is fair and effective.

I've reviewed the hearings of this committee and have specifically chosen to address issues that have not been fully discussed before the committee. However, we share the concerns that have been raised with regard to the definition of disability and we would also support the call for the release of the regulations. It is very disconcerting in reading the transcript of the committee hearings that the government representatives have made reference to the intention of the minister to exempt or to define certain issues but there is no concrete evidence in the form of regulation to prove that intention. All legislators make valiant attempts to create legislation that reflects their intention. Given the wholesale revision of this legislation,

it would be in the best interests of the government to release those regulations so that we could comment on their application prior to implementation.

I wanted to focus your attention on the Ontario Works portion of the legislation, looking specifically at the workfare, overpayment and appeals portions. In Windsor we reduced our caseload by 45% in two years, not through workfare but through jobs. The third shift at Chrysler and the opening of the casino provided welfare recipients with the exit vehicle they needed to leave welfare, proving that adequate jobs are the solution to unemployment.

This act itself should contain clear exemptions to the workfare requirements. Clients in the age category of 60 to 64 should be exempt from mandatory employment requirements. Many of these recipients are older workers who can no longer do the physical labour they performed in their youth and their education skills are outdated and inadequate.

Clients who are sole-support parents should be exempt from mandatory employment requirements. Single parents should retain the right to choose when it is appropriate to return to the workforce. There is no arbitrary age this government can point to as a universal point at which children no longer require home supervision. Children with special needs are as needy at age 12 as at two. No childhood is problem-free, and we know from the work of Campaign 2000 and other groups that poor children are at greater risk for nutrition, health, behaviour and social problems. The rate of suicide and high school dropout is much higher.

Recently the Windsor Star ran a series of articles on children in crisis, documenting the lack of community services to support families in need. For families who can't afford private counselling services, the parent is the primary resource for that child. Why would you undermine that parent by forcing him or her to earn their welfare cheque?

Furthermore, there is a high correlation between domestic violence and sole-support parents. These victims of domestic violence are at risk in the community. Their children are often subjected to contested custody disputes and apprehensions. Their problems will not disappear after they've been on assistance for four months. The workfare provisions as stated by Metro social services are based on practices and experience with the employable general welfare caseload and cannot be transferred to sole-support parents without major problems.

When we examine your current ministry policy manual on exemptions from job searches, there is an exclusive requirement for medical documentation. Many of our clients have problems accessing medical care and use only walk-in clinics. These doctors cannot and will not express an opinion about their employability because they have only seen them briefly. Psychological problems are often masked and undiagnosed. Under this legislation, we need legislative exemptions for physical, psychological or intellectual restrictions, lack of essential resources, child care, transportation and basic equipment.

While on workfare placement these workers should be protected by the provisions of the Occupational Health and Safety Act and the Ontario Human Rights Code. The Essex county business plan has a pathetic checklist to review whether the placement agency even knows about this legislation. There is no verification process, unlike the requirements for welfare recipients to prove their eligibility. Why would you deny welfare recipients the basic rights that other workers have in employment situations?

1200

Subsection 7(4) of this legislation should be amended to require that when employment measures are reviewed, the test should be whether they are "appropriate" employment measures. In addition, the recipient should be required to make "reasonable efforts" to prove eligibility. The legislation should clearly state that the recipient can offer a "reasonable" excuse for not meeting those requirements. These changes would require the decision-maker to review the circumstances in their entirety, not only as to whether the policy itself had been followed.

In the workfare experiments, it's absolutely critical that this program be evaluated. The legislation must require the minister to report publicly on the outcome of the evaluation programs. We know there have been problems in other jurisdictions and we need to know what the results of this experiment are. It is important to address this now because the design of the system is often determinative of the outcome. The information recorded must document what happens and the number of times people return to the system.

Welfare cannot remain a numbers game where all we care about is the number of cases on the system at any one time. We know anecdotally that clients who leave welfare for low-paying jobs without finishing high school and training return to assistance. Successful transition will not be achieved if the sole goal of the system is to take the shortest route off welfare.

I will now turn to recovery of overpayments within the system. At the outset, I must state that I'm at a loss to determine how the government imagines other government debt can be offset against welfare benefits when the benefits themselves are so inadequate. Similarly, to require spouses to be responsible for overpayments accumulated by each other is excessive.

Currently, when couples reconcile and are placed on joint benefits, any existing overpayment against one can be collected against both of them with their consent. Those existing provisions are adequate for spouses. Welfare overpayments are not debts jointly incurred, as often there is a power imbalance within the relationship where the abusive partner will use the ability to pass on overpayments to the other spouse as an additional threat aimed at keeping her in the abusive relationship. This result is contrary to public policy.

Many overpayments in the system are created as a result of changes in earning, housing, family sizes and the receipt of loans. Notice of overpayments can be generated by the local office and from the computer CIMS system in Toronto. No explanation of the overpayment is provided.

Frequently, recipients can receive two or three notices, each stating differing amounts of overpayments. For clients whose first language is not English, important mail of this nature is usually set aside until someone comes in who can explain what it means. Unfortunately, clients in this situation or those who have limited mobility and contact in the community often will not discover what the overpayment is about until the 30 days to appeal have expired. Under the existing legislation, they could apply for an extension of time for filing an appeal by proving they had a *prima facie* case and reasonable grounds for the delay. The proposed legislation does not give them that right. Under this legislation, the overpayment would become a court order without any review of the accuracy or merit of that assessment.

For clients who suffer from psychiatric problems, they can receive notices of overpayments while in hospital or a rest home for previous periods of eligibility. Without a right to notice with an explanation of the overpayment, the client will not be able to exercise their right to appeal under the legislation. Under the existing legislation, we were able to successfully extend a limitation period for a number of years when we were able to show the client was not capable of understanding and exercising their right to appeal because of their disability and treatment.

In one case, a client had reported his cohabitation with his spouse and reported her income. Instead of deducting her income, the ministry paid them an additional spouse's allowance. Instead of writing off this error as an administrative one, the client was assessed an overpayment when he was in a care facility and no longer received benefits directly. It was only on appeal that the ministry was ordered to write off this overpayment.

In other cases, clients who have been required to attend a psychiatric institution for care have had trustees appointed by the ministry who neglected to advise the ministry of changes to shelter and income. Once the clients were restored to benefits in their own name, they were assessed an overpayment for the moneys controlled by the trustee. On appeal, we were successful in one case in staying the collection of an overpayment. That's why it is essential for the appointment of a trustee to be subject to appeal, especially when recipients will be responsible for overpayments created by a trustee who is appointed without their consent.

Although complete revision of the act is a rarity, the ministry is continually experimenting with program and policy. Therefore, it is essential that the legislation provide adequate checks against those revisions to ensure that they are consistent with the overall purposes of the act.

In Windsor, the ministry experimented with caseload allocation where clients likely to be employable were assigned to case workers in ratios of 50 to one. Clients who were unlikely to be employable were assigned to case workers in ratios in excess of 500 to one. For the latter group, access to case workers was next to impossible. No one in the system recognized that if clients were highly unemployable, they were also very dependent on assistance and needed contact with case workers to review

eligibility. For the cases which came to our office, we were able to successfully appeal decisions where huge overpayments were assessed against clients who had discharged all their reporting obligations to the ministry and it was the ministry who failed to carry out their responsibilities. Therefore, overpayments which are the result of administrative error should be exempted from collection in the legislation.

Recipients need legislative protections against policies and programs which fail. The independence of the review process is a critical element to ensure that recipients are protected from arbitrary acts of administration. This is an important safeguard which the government cannot afford to eliminate. By restricting appeals and the jurisdiction of the board, the ministry is indicating a basic disrespect for the rights of welfare recipients. Thank you.

The Chair: Thank you very much, Ms Overholt. We have one minute per caucus again. We begin with the third party.

Mr Kormos: On the issue of overpayments, I was waiting for you to make that latest comment because you're talking about a subliving level of assistance and it's always rotted my socks how there could be any justification when a person has relied upon the knowhow and say-so of welfare administration. Of course they spent the money. They didn't buy a Jaguar with it or a Mont Blanc pen because inevitably it was a modest amount. But then to call upon them to take it out of a subsistence level, because really we're not talking about subsistence levels here, is punitive.

Ms Overholt: It's been our experience that where the clients are extraordinarily vulnerable, there's a greater risk that an improper assessment will be made against them because they don't understand what their rights are in the system. It's absolutely essential that they have a very clear appeal process so they can find out what went wrong and those mistakes can be corrected. That's just so fundamentally important.

Mr Carroll: Ms Overholt, nice to see you again. Just to clarify something that you raised a concern about, and a very legitimate concern too, and that is about participants in Ontario Works being covered by workers' compensation and the Occupational Health and Safety Act.

Ms Overholt: I said the Occupational Health and Safety Act and the Ontario Human Rights Code.

Mr Carroll: Oh, okay. The Ontario Human Rights Code covers everybody. But on workers' compensation and the Occupational Health and Safety Act, there will be a provision under section 73 because it is our intention that people involved in community placements will be covered by those acts.

Ms Overholt: I know what your intention is. The way you've currently drafted the legislation is to say that they will not have coverage as other workers. What we're recommending is that you flip that around to say that they will be covered unless otherwise exempted, because that gives them the broad coverage of the legislation. The way you've currently said it, you've said they don't have

coverage. So it's really important to flip that around so that you do provide that coverage.

Mrs Pupatello: Thank you so much for coming up from Windsor. I thought you did a wonderful job for us. I'm sorry that we aren't in Windsor. As you know, the government is refusing to come to my city, which is most unfortunate. In any event, did you have one specific question that you have yet to find an answer for that you would like to ask the government?

1210

Ms Overholt: When I look at this legislation and I've listened to the minister, what is so profoundly disturbing to me is the unwillingness of the government to publish the regulations so that we can review this major change in its entirety. I'm very much afraid, given the number of years of practice in this area, I know the differences between what the act says, what the regulations are and what in fact gets presented in policy. To take away the independence of the review tribunal and to say they cannot look at how these matters interact, is just so fundamentally wrong.

I can't understand why the government is reluctant to release those regulations and provide for an independent review tribunal, which is so fundamental. If you're concerned about giving justice to welfare recipients, it's absolutely essential that you have that independence in the tribunal and that ability to look at charter issues and to look at whether the goals and objectives of the legislation have been met by its application and not be bound by policy. That's just really fundamental.

The Chair: Thank you very much, Ms Overholt, for driving here. I assume you drove here from Windsor. We wish you a safe trip back. Thank you for your presentation.

Ms Overholt: Thank you very much.

PERSONS UNITED FOR SELF-HELP SOUTHWESTERN REGION

The Chair: Persons United for Self-Help, Bonnie Quesnel. Ms Quesnel, we're just arranging the microphone for you. Thanks for being here. You've been here most of the morning, so we thank you for that as well. You have 20 minutes for your presentation and, if time allows, we'll ask you some questions.

Ms Bonnie Quesnel: Thank you very much. My name is Bonnie Quesnel and I am speaking on behalf of members of Persons United for Self-Help, southwestern. Our organization represents people with physical disabilities. We are active in our communities and society, pursuing access for people with disabilities. We will achieve full access and integration in society when barriers in buildings, in service and in attitude are removed.

I have been before legislative committees many times in the recent past and I thank you for the opportunity to speak again. Our group believes it is important to speak out again and again, to speak to the people of Ontario and remind them that those of us with disabilities and our families are suffering in the new Ontario. Bill 142 is a continuation of recent pieces of legislation. It continues to

take away and it continues to blame, reduce and stigmatize those of us who are not valued in the business and survival-of-the-fittest Ontario.

We may not be as physically able and we may not be as rich or as employed as you are, but our community will continue to remind the rest of Ontario and our political leaders that we deserve respect, equal opportunity and fairness. It is more difficult for us to gather and demonstrate or negotiate as effectively as doctors, lawyers, organized labour or teachers. Therefore, we have been unfairly burdened and blamed by the efforts of various governments to achieve their economic goals.

I will be happy to stand in line and have my fingerprints taken when the line includes each and every one of you here today. That is fair. That is sharing the burden. That is equitable. What if you decide to fingerprint everyone who carries a health card? That decision would include everyone in Ontario. Do you think the Bay Street boys would go for it? Or is this honour reserved only for social assistance recipients?

If the investigation of fraud is important to you, I understand that there are already some existing cases of OHIP fraud that need some work. Mountains of money have been paid out to US health care companies who recruited Ontario residents for fake substance abuse treatment and psychiatric counselling. Won't the Ministry of Health be satisfied to recover those lost funds with their lawsuit? But why does the government go fraud-sniffing around people who genuinely need assistance, such as people with disabilities?

The positive inclusion found in the Employment Equity Act and the Advocacy Act was destroyed recently. Bill 142 is the introduction of a punitive and restrictive approach aimed both at reducing the eligibility and support of recipients and at tighter policing of that support. If the same vigour was used to go after the expense accounts and retirement buyouts of public officials, and income tax fraud, your energy expenditure would yield greater results. Numerous changes in Bill 142 zero in on people with disabilities. Positive outcomes may be limited, though, depending on your currently unpublished regulations.

Defining disability: The definition used within Bill 142 raises many concerns. The complexity of the definition leads to difficulty in implementation. Will the impact of age, education, job experience and circumstances be taken into account when making a determination? Must individuals show a substantial restriction in all three areas in order to qualify? Even if I manage to do my own personal care independently in my barrier-free and accessible home, I still may not be able to participate in my inaccessible community and workplace. Transportation to work is a giant challenge for people with a disability. Another challenge is to get and keep a job. Sometimes the barrier is found in attitudes, but the end result for the individual is the same. We cannot know how your disability definition will work until we see the unseen regulations.

Employment and vocational rehabilitation: The ODSPA contains a section dealing with employment supports and the definition for eligibility is broader. There is concern that one may qualify for employment supports but be ineligible for income maintenance. This variation leads to a concern about consistency and clarity of definition. There is also a concern that within the employment support section there are no avenues to appeal the decisions of the local service coordinator. Will the limited funds allocated to employment supports be enough? If the employment supports assist with equipment, home and vehicle modification, interpreters and job coaching, the amount of money earmarked appears too small to do the job. It will take more money to level the employment field and help people move into the competitive job market. Are you serious or are you window dressing for the spin doctors?

One of the subsections on employment supports gives the government authority to declare entire classes of people ineligible for supports by creating regulations. Why, how and what is the purpose of this section? It seems to be a very frightening item and does not give those of us with a disability peace of mind. However, we applaud your rapid reinstatement of support promise and will be watching to see that regulations support this promise.

Allowance and benefits: We support strongly the elimination of the 25% copayment on assistive devices. We are pleased that children and welfare recipients are eligible for this benefit also.

Financial testing: Major changes are proposed regarding liquid assets and income. We support raising the ceiling for liquid assets and the exemption of life insurance policies. Bill 142 suggests that families will have the opportunity to support and can assist. But there is fear of new limits on equipment and other supports that will assume that families can afford to provide them instead. In all honesty, many of these families have little money. They have sacrificed two incomes sometimes or have shouldered disability-related expenses already for many years. Are we edging closer to a slippery slope? Is this community leaving the individual with a disability and their family to fend for themselves? Is this community slipping out the back door with no responsibility to its people?

1220

Informal trusteeship: Informal trustees are unacceptable and problematic. It takes away an individual's control of their funds. A bureaucrat determines if someone is incapable without any procedures or safeguards. Why are the poor and disabled not protected under the jurisdiction of the Substitute Decisions Act? Would anyone here like a bureaucrat in a government office deciding if they were competent? Money for the bureaucrat and for the person with a disability comes from the same place: the public purse. Can you imagine an informal trustee being appointed to manage your paycheque? How would you feel about that? The informal trustee has few restrictions and little accountability for his or her actions. This part of

the legislation screams for dramatic improvement. If this bill continues to include informal trusteeship, we have to establish rules, consequences and a system of accountability for the trustee.

Here in London you can understand how questionable it is if utility companies and landlords can get our funds directly. What are the criteria? Do they apply to all citizens of Ontario or just to us poor folks? This is incredibly restrictive and regressive. It makes the poor and the disabled vulnerable in the face of overbearing landlords. We have all read about the situation in Aylmer. Will it restrict one's ability to move? How will it be done? Why do we have different rules? No one has proven that we are of greater financial risk than others, but the current government is willing to implement discriminatory and selective legislation.

In closing, I support the specific measures in this bill which could prove beneficial. However, I do raise a flag regarding some components of the legislation. When all of the people in Ontario have their fingerprints taken, when all of the funds of every individual are sent directly to his or her landlord or utility company, and when everyone could have a government employee determine where their cheque is sent, so will we. But if the individuals sitting around this table are not getting in line, then don't ask us to do so.

Give us a job, give us encouragement, give us an education. Share what you have. Build a community and build a sense of mutual responsibilities. We have a right to the same personal dignity, the same privileges and the same rights that you enjoy every day.

The Chair: We have two minutes per caucus for questioning, if that's all right with you. We'll begin with the Conservative caucus.

Mr Carroll: Thank you, Ms Quesnel. Nice to see you again.

On the issue of informal trusteeship, your comment that "we have to establish rules, consequences and a system of accountability for the trustee," I agree with you 100%. I don't think there's any way that we can, in all conscience, just throw it wide open for trustees to manage somebody else's money and not be accountable to anybody. I agree with you on that.

Are there some situations, though, where we do need to assist a person because they are not able to handle their money effectively? Are there some situations where there is a need for a trustee or somebody to help them with how they spend their funds?

Ms Quesnel: I don't think so, not at all. I caution against making rules. Being on the advisory committee for Paratransit, a lot of people would like to change the rules to fit the individual, whereas you always like to look at the individual and fit the service to meet the needs or the requirements at that point.

Mr Carroll: If somebody was a single parent, as an example, and was receiving support, part of which support of course would be for the children involved in the family unit, and that parent was not taking care of the people in the family unit, would there not be some obligation, do

you not think, for somebody to help them to budget their money so the children in the family unit were being protected?

Ms Quesnel: I believe there are laws and things inside the community that would take care of that. I don't think we need proposed legislation for that.

Mrs Papatello: You certainly made a case eloquently in a number of areas why things shouldn't be happening in the way they seem to be happening. Towards the end you said, "Get me a job." The government line — and I won't speak for all the Conservative MPPs, but some of them certainly that I was familiar with during the campaign didn't say, "Get them a job," they said, "Go get a job." How do you respond?

I'm trying not to make such a distinction between those who may or may not meet the criteria to be considered substantially disabled, because there will be disabled people who will not meet the criteria as they are being laid out, even with the "and" being changed to "or." We've met people so far on our travels who are not substantially disabled. Even though they have a very obvious disability, they are working, by virtue of their having a job right now. So I'm trying not to make such a distinction between what the disability may or may not be and more relative to the job opportunity. Whether you're disabled or not, if there's no job out there in your community, if you come from a rural, northern community and the mine closed, there are just so many examples where there simply isn't a job there.

Workfare, if it were in a form where it were truly meant to be employment training that was reasonable training, which actually led to a job that was practically available in the community, you could almost rationalize. People would rush into it. We heard yesterday a fellow who said very clearly, "If you had a good program, they would rush to jump into a program that's actually going to get them a job." I thought you made that point very well, but I'm concerned about this distinction between: "Did you make the bar and are you disabled enough? If you did, good for you, you're all set. If you didn't, get out there and get on to workfare."

Mrs Boyd: You always express yourself so well and you certainly challenge us. I can assure you I'm not getting in line. I wouldn't want my parent or my landlord or my minister or somebody down the street deciding that I wasn't competent to deal with my money, with my income. You're quite right. This bill leaves it wide open.

I'm interested to hear the parliamentary assistant say he agrees that there should be guidelines and so on. They aren't here in this bill, and in fact we do have legislation that deals with exactly the situation he's talking about. The Child and Family Services Act deals with the issue around neglect of children. The Substitute Decisions Act, as you pointed out, provides the framework for declaring someone incompetent to deal with their income. There is no reason for this provision other than a punitive one, where people can simply interfere in the lives of people who are on assistance. So you're quite right to challenge us in that way, and I want to thank you for that.

Do you really think that if everyone were fingerprinted, it would be good enough, or are you saying that because you're quite sure, as the devil's advocate, that no one would agree to that?

Ms Quesnel: I'm hoping that not everybody will agree with that.

Mrs Boyd: You're not advocating.

Ms Quesnel: I don't say I look very good in black.

The Chair: Thank you very much for being with us this morning, for being here for most of the morning. Your presentation was indeed articulate and we thank you for being here. We will reconvene at 1:30.

The committee recessed from 1229 to 1336.

The Chair: Mr Kormos, thank you for filling that time —

Interjection.

The Chair: Mr Kormos, I'm prepared to start. We're already running a little late.

AIDS COMMITTEE OF WINDSOR

The Chair: May I call the AIDS Committee of Windsor, please, to come forward. I apologize for the slight delay. There was some difficulty in getting here by elevator and I apologize for that. It doesn't seem that very much is working in this hotel at this time.

Mr Kormos: Please, Chair, if we could at least wait for Ms Papatello.

The Chair: Ms Papatello knows that we're starting on time and I'm mindful of people's arrangements to be here. We're already a little late.

Thank you very much, Ms Osborne, for being here. Ms Papatello will be here momentarily. I know that you come from the fair city of Windsor and I know she wants to be here. You have 20 minutes for your presentation and you may use it as you wish, and if there's any time, we'll ask you some questions.

Ms Mary Osborne: My name is Mary Osborne. I'm from the AIDS Committee of Windsor and I'm the education coordinator.

By way of introduction, the AIDS Committee of Windsor was founded in 1985 by people who were responding to a new and lethal epidemic that was affecting our community. Support to people living with HIV and AIDS has always been a large part of the work we do, and that support often includes advocating on their behalf.

There have been many obstacles to overcome throughout the epidemic that have threatened the health and well-being of people living with HIV. Currently those obstacles include a government that has not clearly thought out the detrimental effect that legislation such as Bill 142 could produce. Indirectly, education of people at risk of contracting HIV could also be affected. This is due in part because those at highest risk are often living in poverty and have other more immediate concerns such as housing and food. They frequently put health issues on the back burner in order to survive.

We are concerned that the proposed legislation, Bill 142, will destroy some of the accomplishments that have

been made with regard to individual rights and support. As well, there may be damage done to the great gains that have been made in helping HIV-positive people remain well. Some of our concerns are outlined in this submission.

Of course, the first issue is definition of disability. According to the act, to be eligible a person must meet the following criteria: You must have a substantial physical or mental impairment which is expected to last at least one year. The impairment can be either continuous or recurrent. You must prove that the direct and cumulative effect of the impairment causes a substantial restriction to all of the following: your ability to attend daily to your personal care, like washing and dressing; your ability to function daily in the community, like shopping, attending social functions or volunteering; and your ability to function in the workplace on a daily basis. I won't read the verifications.

For the purpose of this submission, the "PHA" I'll refer to means a person living with HIV or AIDS.

The proposed section does not define the word "substantial" and who will make that determination. There are several reasons that the usage of this word is of concern. People living with HIV are at the mercy of an immune system that may or may not be functioning well on any given day. The very term "substantial" may be arbitrarily applied to mean that a person needs to be confined to a bed or a wheelchair. PHAs may be functioning at a "normal" level for a period of time and can without much warning become ill and/or hospitalized. In fact, the word "and" at the end of each of the criteria leads one to assume that this person will have to be completely helpless before they qualify for disability.

The potential for debilitating and life-threatening illness is always a possibility and needs to be addressed in this or any other legislation. HIV is an unpredictable disease with many variants. It is most certainly chronic, but cannot by any stretch of the imagination be considered manageable at this point in time. This is in part due not only to the unpredictability of the disease but also the unpredictability of the effectiveness of treatment. Indeed, some people simply cannot tolerate the new regimens. Likewise, the criteria to determine eligibility need to be more inclusive of the differential of many illnesses.

The ability to attend to daily personal needs and the rest is problematic for much the same reason. Many people who are disabled for any reason are able to care for their own personal needs without assistance, yet cannot function at a job on a daily basis. While we agree that, if possible, it's important for people to be employed as long as physically possible, if there is a barrier to that employment such as chronic pain and fatigue, or if the employment is going to cause further damage to their already existing disability, then the effort to make people employable could result in increased health care costs and quite possibly a severe deterioration in their condition.

Under "direct and cumulative effect," functioning in the workplace, at home or socially may not be impaired as much by HIV as by the medications and the extremely

strict protocol that must be followed by those persons taking them. In the back three pages of this submission I've included some information about the adherence to the regimen for the new medications.

Examples of this include the new protease inhibitors which are taken in combination with two or three other anti-virals. Some of them are taken with food, some without. Some of the drugs require refrigeration. Some require low-fat intake; others require the opposite. The times for the drugs must be strictly adhered to for them to be effective. Compliance to these guidelines must be followed if any benefit is to be derived from their use.

The side-effects, which can and do include nausea, vomiting and diarrhoea, impair the ability to continue working and make it difficult to function at an efficient level if a person is in constant distress due to these side-effects and the rules for compliance. Most workplaces, while possibly being accepting of occasional illness, will find it difficult to tolerate the frequent and often daily problems associated with the use of these medications.

While some of these drugs are proving to be of benefit to some PHAs, and some have actually returned to the workplace, the protocol and side-effects can severely limit one's ability to function in the everyday work world. Will this be taken into account as part of the disability as a direct and cumulative effect of HIV? Will there be sufficient understanding of the function of these drugs to acknowledge that without these drugs many PHAs will become sicker and possibly die?

It is entirely possible that people may decide to discontinue their therapy in order to remain off work. A scenario that could occur would involve a PHA who is maintaining a reasonable life with the help of the new combination of drugs but is experiencing side-effects. If this person is forced back to work, these side-effects would most likely act as a barrier to his or her ability to function on a regular basis on the job. This could force the PHA to make health decisions that could impact negatively on his or her long-term prognosis. They know that returning to the workforce in many instances can lead to situations which will alter their immune function.

Additionally, many have been out of the workforce for years and have no marketable skills and would be forced into low-paying jobs with little or no benefits to help cover the tremendous cost of the drugs that are needed in order for them to maintain their health. While it is understood that there is some assistance from the Trillium drug plan, this plan remains cumbersome and time-consuming, with many limitations, including deductibles which are out of reach for many people.

Our solution to this would be to delete activities of daily living from the legislation because many people with disabilities, as has been stated, are able to wash and dress themselves without assistance but cannot function on a daily basis in the workforce because of their disability. Pain and fatigue are only two possible effects of a disease process that can severely limit one's ability to function completely. Replace the word "and" at the end of each of the criteria with "and/or" because, as stated before, if one

reads the definition as printed, it appears as though a person needs to be so severely limited that they are bedridden. Include drug side-effects in the criteria. Many of the drugs taken by PHAs and people with other diseases such as cancer have severely limiting side-effects.

Under the exception for eligibility for and payment of income support, reading this, there's not much grey area in the way it's written. "A person is not a person with a disability if the person's impairment is caused by the presence in the person's body of alcohol, a drug or some other chemically active substance that the person has ingested, unless the alcohol, drug or other substance has been authorized by prescription as provided for" in the elusive regulations.

Our interpretation: This arbitrary and discriminatory paragraph will condemn thousands of people to poverty, crime and substandard care simply because they have a disease called addiction. It is important to understand the circumstances that may lead a person to drug and alcohol use. With many people, the use of drugs and/or alcohol helps them deal with a life that is filled with despair and hopelessness. For the purpose of this submission, I'm not talking about the corporate president or even the government politician who is an alcoholic. He or she will have all the financial backing that they need when the time arises.

Instead of dealing with the reasons for addiction, like poverty, this document clearly commits addicted people to a life outside the realm of the rest of us. In fact, the preservation of poverty will be assured and will guarantee that many people will have to exist in circumstances that you cannot even imagine.

Many people infected with HIV acquired the disease through the sharing of needles. Are they going to be included as ineligible? You are quite simply condemning people to die with no support systems in place and no financial assistance.

There is the added problem of crime. Desperate people do desperate things, and it is entirely possible that these statistics will rise. Food, lodging and other essentials cost money. If there are no obvious solutions for these everyday occurrences, then some people may resort to the only avenue left to them, and that's crime.

There are also questions about the person who is drug- or alcohol-free for a time, maybe many years. The person could be diagnosed somewhere down the road with liver cancer or cirrhosis and will need care and medication. What's being very effectively said in this exception is that he or she is not worthy of our attention and it was a waste of effort to stop drinking. That message will be heard loud and clear by many and will have the effect of, "It really doesn't matter if I stop drinking or taking drugs because no one really cares."

The only solution to this part of the legislation is its deletion. Instead, deal with the issues that produce addiction. There are ample studies available to help initiate a plan. Learn from the mistakes of others, most notably the US. Their war on drugs is a losing battle and it's apparent that we are following in their footsteps.

Understand the myriad of issues that surround a person's dependence on drugs and alcohol and try to make a dent in the use by young people. Don't condemn people to die in the name of cost-cutting and streamlining. Try to remember that you're dealing with human life and have a responsibility as an elected body to give everyone equal opportunity. Applaud those who make honest attempts to discontinue their use of drugs or alcohol, but at the same time offer some hope of a future to those who haven't made it to that point.

1350

There have been many attempts by people in our community and in Ontario to explain as clearly as possible the detrimental long-term effects of this legislation. As with other government documents, this one is unclear and ill defined. It appears to place a serious burden on the lives of people who have disabilities of any type. The definition of disability and the exception are only two areas of concern. I'm briefly going to go over other areas that are somewhat bothersome.

(1) The appeals and overpayment process is arbitrary and punitive, especially as it relates to the overpayment requirements of a spouse who may be in a situation that is not of his or her making.

(2) It's unclear who is actually going to have the decision-making power. As with the rest of this and other legislation, reference is made to regulations, but there is no clear evidence of the content of those regulations. Allowing that the ministry will have the ultimate word in any decision, another problem arises, and that is the conflict with a person's civil rights. The ministry has on occasion been in conflict with the rights of citizens in the courts.

(3) Confidentiality is a problem, with no penalties for its breach. People with HIV/AIDS have a built-in stigma that comes with the disease. Many try very hard to keep this information confidential. While we understand the need for information-sharing under certain circumstances, the legislation does not spell out those circumstances in a way that will assure those with HIV that there will be strict adherence to confidentiality, and this should include penalties for its breach.

(4) The arbitrary and ill-thought-out designation of family support workers to execute warrants: This section will undermine the trust that many family support workers try very hard to build in a community. They will now be viewed as the enemy. While we agree that fraud is an important issue, it is equally important to leave that type of investigation to those people whose job it is to do. It is also important for everyone to realize that fraud exists at all levels of the socioeconomic scale. Poverty already brings with it an undeserved stigma. This attempt to turn social workers into police will only make the situation worse.

(5) Are people currently receiving disability going to be grandparented into the new system or are they going to be required to reapply and/or go through a review process? There is no clear indication for those who are currently receiving disability support about the method of transition

to the new system. Transferring, from what I understand, means that people will be moved to the new program but then will be compelled to meet the new eligibility requirements. Grandparenting means that if a person was eligible under the old system, they are also considered eligible under the new one.

Finally, few people from the affected communities will speak up about this legislation. There are several reasons for their lack of involvement in this process. This represents yet another barrier to be faced. Along with the stigma of poverty comes the knowledge that there is no support, and they see this as another attempt to further inflict hardship and pain from which they can see no way out. They live in constant fear that someone will further intrude on their freedoms, which already are too few.

If you are sincerely concerned about the welfare of all Ontarians, we ask that you reconsider this legislation, reintroduce a more equitable and fair system, and explore options that can help people break the cycle of poverty.

Thank you very much.

The Chair: Thank you, Ms Osborne. We have a minute per caucus. We begin with the official opposition.

Ms Papatello: Thank you for coming up from Windsor to speak with us today. As you likely know by now, the government has refused to come to Windsor with this bill for what they, I guess, think are obvious reasons. Unfortunately, our people have had to make the trek to London to participate.

I am going to put the Chair on notice: I have a question as soon as this presenter's time is up.

In the meantime, I'd like to ask, Mary, how you feel knowing that today the government has launched an advertising campaign announcing workfare. While you have taken the two-hour drive to come here to speak to a bill that has yet to be made law, today the minister announces an advertising campaign in the order of \$900,000 announcing workfare. You and all of the people behind you have come here today to speak to potential amendments to the bill and the minister has launched \$900,000 worth of advertising telling everyone how workfare is coming to their community, with or without your comments from the AIDS Committee of Windsor.

Ms Osborne: I think to myself, what could that \$900,000 do for the people I see on a daily basis? I see PHAs who very, very much attempt to go back to work to try to make a life for themselves and I think about all the good that money could do to help them rebuild their lives, so to speak. I see people who are taking the new drugs and are doing really well — some are — and have absolutely no options open to them. They have maybe no marketable skills because they've been off work for a long period of time, now are feeling wonderful, want to go back to work. Nobody will hire them because they don't have these skills, and there's no drug coverage for them. I think \$900,000 could go a long way to helping those situations.

Mr Kormos: The ad is, "People on welfare working to rebuild their lives," as they're liberated from the trap of poverty by being sent to the hostels and the food kitchens, on to the streets and into cardboard boxes and lineups at

soup banks. That, Mr Parliamentary Assistant, is repulsive.

Subsection 4(2), the alcohol and drug issue — and let's stop cutting corners. I know I've tried to. I've talked about it if I were a glue sniffer or an alcohol sniffer as an adolescent, brain-injured, and then as an adult — let's get right down to the nitty-gritty and let's talk about alcoholics and drug addicts.

The AIDS Committee of Ottawa yesterday told us that the incidence of HIV infection is just skyrocketing among intravenous drug users and that the age is getting lower and lower, that it's adolescents rather than what historically was that older profile, and that by driving drug addicts underground, by not recognizing them as persons with disabilities, although drug addictions and alcoholism are recognized as a disease by every major authority in the western world, the direct impact of that is going to be an increase in the utilization of dirty needles, of shared needles —

The Chair: Mr Kormos, do you have a question?

Mr Kormos: — an increase in the phenomenon of HIV infection. Can you comment on that? Because I have great concerns about that.

Ms Osborne: We have a needle exchange program at the AIDS Committee of Windsor and we have not seen the tremendous rise that other communities have because we have two very good outreach workers who do a very good job of getting people into recovery if possible. In fact, some of those people have become volunteers. I heard somebody mention earlier about people becoming volunteers. However, the increase is very, very alarming.

There is an increased use of steroids as well among students in high schools. There's just as much a risk of people contracting HIV, and yet they don't view themselves as being at risk because they think they are doing something healthy for themselves. A lot of education needs to be done around that. It's a very difficult community to get to, and part of the reason is because they're kept under the thumb all the time.

Mr Carroll: Thank you, Ms Osborne. There are some changes proposed in Bill 42 that you didn't comment on that I would like to get your comment on. One is the rapid reinstatement provisions for work. Another is the \$100,000 limit on the cash surrender value of life insurance policies. Another is the increased ability for family members and others to assist people who are on disability. And the fourth one is elimination of the ADP copayment of 25%. Could you tell me how those four issues would affect the community that you represent?

Mrs Papatello: If they can get over the bar, Jack.

Mr Carroll: I asked her the question.

Ms Osborne: I'm kind of at a loss for an answer to that because it's not something I delved into. I'm not a lawyer and I didn't look into those issues quite as clearly as I did these other issues.

My biggest concern has been that people living with HIV who are on a disability be given a fair and equitable chance to return to the workplace or remain on disability if their situation is such that they cannot work, and this

happens. As I say, I know a number of people who have returned to work. I know many who cannot because of the disease.

The Chair: Thank you very much, Ms Osborne, for taking the time to be with us today. We know it was probably not pleasant conditions coming here, but we appreciate it nevertheless. Have a safe trip back.

Ms Pupatello, thank you for the notice. Your question?

Mrs Pupatello: I don't want to delay the proceedings. We do want to hear from everyone who's here today.

My concern is significant because during the lunch hour I received a fax that outlined the minister's announcement today, dated today. This happened out of the Queen's Park office, of course. My concern is that all of us, Conservative MPPs, Liberal and New Democrat, are travelling the province. We're in our third day of travelling hearings. The minister, in the meantime, out of Queen's Park has launched an advertising campaign that announces that in fact the very bill we're discussing and that has yet to be passed by the House is out there with a \$900,000 ad campaign.

1400

The Chair: What is your question, Ms Pupatello?

Mrs Pupatello: In this comment she says, "Municipalities have been telling us there is a need to raise awareness and to give people more information about the program."

Chair, you and I, the parliamentary assistant, we were all in North Bay where the municipality of North Bay said, "We don't want this program." This is not what we're hearing on the road. What we're hearing on the road is that there is a significant problem with this bill.

I want to understand the Chair's position whether we continue with proceedings that are so obviously a sham while the minister is out there in front of the press in a gaggle of reporters, I suppose, launching her radio, television and print ads, pictures of these people going to workfare.

They have launched pilot projects across Ontario. They are now in the process, as we all are, of discussing what the bill is going to be that makes workfare the law. How do we reconcile the expense, the time, people who have travelled from Ottawa to be in London, from my home town in Windsor to be here in London, and your government, Parliamentary Assistant, has the gall to launch a \$900,000 campaign saying, "This is here"?

You know the program is mandatory as it's written in the bill. I need to understand the purpose of an advertising campaign when the program is going to be mandatory anyway. You don't need to advertise what you are forcing people to do. You're forcing municipalities to participate because you've threatened them with the grant money, that if they don't participate in workfare, they won't get provincial dollars.

The Chair: Ms Pupatello —

Mrs Pupatello: Why do you need an advertising campaign to tell people what they're going to be doing anyway?

The Chair: Ms Pupatello, you asked a question and the answer to your question is this: We are, as a committee, working under the government's time allocation motion which requires us to hold hearings in a number of cities. We have to act within the confines of that time allocation. Thank you for the question, but we're going to proceed now with the hearings.

Mrs Pupatello: I need to have a response from the parliamentary assistant. I want the rationalization for launching a \$900,000 campaign for a program that we have not yet passed into law. You've caused a significant number of people to travel. I want you to tell me why.

The Chair: Ms Pupatello, I understand. Your original question was to me. You're now putting another question to the parliamentary assistant. Mr Carroll.

Mr Carroll: Nice speech. The Ontario Works campaign has launched some time ago. My community, I know, has several hundred participants. It is not a new process. It's been out there in many communities in the province for well over a year, so it's not a new process. It is not dependent upon the passage of Bill 142. The minister took it upon herself to respond to requests from municipalities that the whole idea of Ontario Works —

Mr Kormos: Horse feathers. That's horse shit. Point of order, Madam Chair.

The Chair: The question has been answered. Unless there are some new points, we're going to move on.

Mr Preston: Point of order, Madam Chair: I don't believe this discussion, taking away time from the people who have travelled here —

Mr Kormos: Oh, we'll wait. We'll wait for them.

Mr Preston: Thank you. That's all I would like — fine.

Mrs Pupatello: Chair, may I continue with my question, please?

The Chair: If it's a new point, Ms Pupatello, very well.

Mrs Pupatello: The parliamentary assistant has just indicated that the workfare program in Ontario, mandatory as it currently is in those pilot projects where municipalities are participating —

Mr Preston: That's not a point of order.

Mrs Pupatello: — they are not conditional on Bill 142.

The Chair: I'm waiting to hear your point of order, Ms Pupatello.

Mrs Pupatello: If the bill that we are currently discussing has nothing to do with workfare, I'm asking the Chair and the parliamentary assistant then to explain why we are holding public hearings on Bill 142, because the parliamentary assistant has just told us that you don't need Bill 142 to enact workfare in Ontario. I need to understand the distinction, because we're all responsible MPPs here. We're taking our time and resources to be here and the parliamentary assistant is telling us we don't need Bill 142 for workfare. I'd like to know why we are here with this bill.

The Chair: I've explained it to you from the Chair's point of view. We're working under a time allocation

motion that the government passed. Our job is to go to the various cities as set out in the time allocation motion and hear what people have to say.

Mrs Papatello: This is for the parliamentary assistant, Chair.

Mr Preston: It's not a point of order.

The Chair: If Mr Carroll wants to try it again. I believe he's already answered it, Ms Papatello.

Mrs Papatello: The understanding is that, just like he responded, you don't need a bill to have workfare. He's just said that. If you don't need a bill for workfare, why are we holding public hearings on Bill 142?

The Chair: I don't think that's a new point, Ms Papatello. We've dealt with it in the first point.

Mr Kormos, do you have something new?

Mr Kormos: Yes, Chair, because further to Ms Papatello's comments, you'll note that the press release says that one of the objectives is to "tighten eligibility requirements." That contradicts everything the parliamentary assistant has been saying for the last two weeks. Yet the minister today in her press release crows and applauds the fact that this will tighten eligibility requirements.

Mr Preston: None of this is a point of order, Madam Chair.

Mr Kormos: That ad campaign is all about the Tory promise to get tough on people on welfare and to beat up on the poor —

The Chair: Mr Kormos, do you have a point of order?

Mr Preston: None of this is about a point of order, Madam Chair.

Mr Kormos: I want the parliamentary assistant to explain how he was able —

Interjections.

The Chair: Ladies and gentlemen, if we're going to disintegrate to this extent, I don't think that's very fair to individuals. If we're going to proceed that way, that's fine.

Mrs Papatello: Chair, this is very important that we have this —

The Chair: Ms Papatello, I understand what you've said. You have asked a question of the Chair. It's been answered. You've asked a question of the parliamentary assistant. I can put it to him again. Do you have anything new to add, Mr Carroll? No. Your question's been answered. We move on.

Mr Kormos: It's clear Ms Ecker is lying to the province and Mr Carroll's been lying to the committee as well.

The Chair: Mr Kormos, I think we're going to move on.

May I call upon the Roman Catholic Diocese of London, Father Bill Capitano.

Mrs Papatello: Chair, while we're waiting for him to approach the table —

The Chair: Is this a new point of order, Ms Papatello?

Mrs Papatello: Yes, it is. It's a new question of the parliamentary assistant.

The Chair: All right.

Mrs Papatello: I only think it's fair, because your own government members as well as opposition members are going through the time and procedure to hold public hear-

ings and I'd like the parliamentary assistant to explain to me the rationale of \$900,000 being spent to launch an ad campaign that is so clearly a public relations manoeuvre when we so clearly had a crash-and-burn exercise in the Premier's own home town with this bill. You have admitted that you don't need the bill to implement workfare. Why then have you introduced Bill 142 and why are we continuing with hearings?

Mr Carroll: It sounds like the same question, Madam Chair, that I just answered.

FATHER BILL CAPITANO

The Chair: Very well. Father Capitano, thank you very much for being here and for your indulgence with us. You have 20 minutes to make your presentation.

Father Bill Capitano: Good afternoon, everyone. I'm bringing two reports. The presentation that I'm making you have. You also have another report that I will refer to, the Neighbour to Neighbour report. I'll refer to that throughout my presentation.

Again, good afternoon, ladies and gentlemen. My name is Father Bill Capitano. I'm a priest of the Roman Catholic Diocese of London. Thank you for allowing me to come before you.

Today I'd like to make three recommendations concerning Bill 142. My first recommendation deals with the amount of money welfare people should be given. My second recommendation deals with the question of workfare. My third recommendation concerns the amount of time that we have to look at this bill.

My first recommendation: It's clear from Catholic teaching that the goods of the earth are for all and that all people should have enough of these goods to live with dignity. Here is a quotation from the Canadian Catholic bishops:

"As subjects of creation, all persons have certain inalienable rights. Of primary importance is the right to life and all that makes for a more fully human life, such as adequate food, clothing, shelter, employment, health care, education and effective participation in decisions affecting their lives."

That quotation is from a 1984 document by the Canadian Catholic bishops called *Ethical Choices and Political Challenges*.

This right to live a fully human life applies to all, to working people and to those on social assistance, and since today's hearings deal with those on social assistance, my recommendation is that Bill 142 state most clearly that people on social assistance have sufficient goods to live with dignity.

Perhaps I could put my recommendation in these words. Since welfare rates presently are below the poverty line, and since to live with dignity requires a certain amount of material goods and services, therefore, welfare rates should be raised above the poverty line so that social assistance people have sufficient goods to live with dignity.

1410

With regard to raising welfare rates above the poverty line, a five-year plan could be developed, with gradual increases each year until the rate reaches above the poverty line after five years. I refer you to page 2 of the report that I gave out with my presentation. This page 2 gives Statistics Canada's poverty lines. If you're wondering what the poverty lines are according to Statistics Canada, they're right there on that page, and that's for 1995.

Underlying what I just said about raising welfare rates is this reality: Welfare people today are suffering. They do not have enough money to live with dignity. The welfare cuts of 21.6% in the fall of 1995 hurt people. They were suffering before the cuts because of a lack of funds, and these welfare cuts hurt them even more.

In May of this year at the city council chambers in Windsor, we listened to the poor and those who worked with the poor. This was part of the work of the Windsor ISARC committee, ISARC being the Interfaith Social Assistance Reform Coalition. I am a member of the Windsor committee.

On that day in May we heard some frightening things about the poor. We heard, for example, that 18% of the children in Essex county live in poverty; some 20,000 children are hungry. We also heard that the number of people using food banks is increasing. We heard that people are using their food money for rent, with the result that they do not have sufficient funds to eat properly. We also heard of the need for affordable housing. When you look at the welfare cutoff rates, the poverty lines — just compare what you yourselves are making and you'll see, ladies and gentlemen, that these welfare rates are terribly low and do not really enable these people to live with dignity with the amount of goods and services they need to live a fully human life.

My second recommendation: This concerns the question of workfare. Perhaps Bill 142 could state it, if it doesn't: Get rid of workfare. What we need today are good-paying jobs, and since workfare will not provide these good-paying jobs, why spend a lot of time and money trying to put into effect something that will not provide what is really needed?

Secondly, forcing social assistance people to work will only lock them into poverty. Since welfare rates are below the poverty line, forcing these people to work with no substantial raise in rates will simply keep them in poverty.

Thirdly, if you are wondering about the effectiveness of workfare, I would like to quote from a paper given by my own boss, Bishop John Michael Sherlock of the —

Interruption.

The Chair: We'll call the hotel management. Could I ask people to move away from what appears a leak from the ceiling?

Mr Preston: I don't think you have to ask them to do that. I think they know how to do that.

The Chair: Thank you very much for your help, Mr Preston. As usual, you're terrific. Could we ask the hotel management, please, to come in here and look after this.

Mr Kormos: Chair, what gives with the Westin? First they toss out honeymooners at 3 in the morning and now —

The Chair: It has not been a happy experience for this committee at this hotel, that's for sure. As we wait for the management, we'll try and continue. Father Capitano, I don't know how to apologize to you.

Father Capitano: I can't blame you for that.

The Chair: This surely is not God's will. Father, this may not be a flood, but how are you at parting the waters in the event of trouble?

Father Capitano: We'll call out Moses, I guess.

Thirdly, if you're wondering about the effectiveness of workfare, I'd like to quote from a paper given by my own boss, Bishop John Michael Sherlock of the diocese of London. In his presentation to the London city council committee on May 16, 1996, Bishop Sherlock said:

"Compulsory programs such as work for welfare proved no real solution to the poverty of individuals or families. Workfare is simply punitive and demeaning, offering jobs that are not permanent, providing little by the way of advanced skills and perhaps, even more importantly, offering little in the way of hope."

Fourthly regarding workfare, work is to be freely chosen. The United Nations makes this perfectly clear. Article 6 of the International Covenant of Economic, Social and Cultural Rights recognizes "the right to work, which includes the right of everyone to the opportunity to gain his or her living by work which he or she freely chooses or accepts."

Interruption.

The Chair: I think under the circumstances we will have a recess for as long as it takes management to get here. I'm very sorry, Father.

Father Capitano: That's okay. I'm just about through. *The committee recessed from 1417 to 1537.*

The Chair: Ladies and gentlemen, thank you again for your patience. We are resuming the hearings after our third interruption. We hope that will have been the last one. We've been assured that there should be no more difficulties, but we'll just keep hoping that's the case.

Mr Preston: Madam Chairman, I have a suggestion to make and I want people in the audience to realize this is a suggestion that I have spread around the committee and I have consensus from the committee. We are in no way telling anybody that they cannot present today if they wish, but there are travel requirements for everybody in the room.

The fact of the matter is that if you take a 20-minute presentation and your submission is 20 minutes, nobody is going to have an opportunity to ask you questions. That will form part of the hearings. If you just submit it, it will also form part of the hearings. So the only thing that's missing is you have the satisfaction, and I know how that feels, of being able to do it personally.

Travel requirements are very, very tight. If there are people who would hand in their submission rather than doing it personally and the ones who don't have a written submission would be allowed to give their verbal sub-

mission, it certainly would simplify things greatly. Now, I'm not saying that we don't want to hear you. I'm saying —

The Chair: Thank you, Mr Preston. Your suggestion is that if anyone has difficulty because of the time delays and you must be somewhere else, we would be quite happy to receive your formal presentation without your actually having to deliver it and we would assure you that it would form part of the proceedings. So we'll leave that option entirely to individuals in the audience to do as you wish.

We can't seem to find Father Capitano at the moment, so we'll proceed with the next presenter and when and if Father Capitano appears, we'll insert him into the slot.

INDEPENDENT LIVING CENTRE, LONDON AND AREA

The Chair: Our next presenter is the Independent Living Centre, London and Area, Steve Balcom. Mr Balcom, thank you very much for being here. You were here this morning and waited with us all through the afternoon. We're very glad to have you here.

Mr Steve Balcom: I'll take a minute here and get resettled.

The Chair: Absolutely. Do you need any assistance?

Mr Balcom: I'll let you know in a second.

The Chair: All right.

Mr Balcom: I noticed from earlier presentations if you're not right on top of the mike, it's hard to hear, especially if you're behind. It's certainly been an interesting day. I don't even want to think about what we'd do for an encore.

Anyway, thank you for this opportunity to discuss Bill 142 with you today. We hope that someone is listening and is prepared to make changes beneficial to people with disabilities in Ontario. I know you've heard about this already, but it bears repeating.

Let's start with the fraud squad. For some inexplicable reason, your government has focused on the possibility of assistance recipients defrauding the system. Bill 142 makes room for enforcement officials. The enforcers will operate fraud control units. Next, there are eligibility review officers. These review officers could be given the power to obtain and execute search warrants. Also, the family support workers can make recipients pursue family support claims. The government is prepared to make people go after support they are owed so that the government can then deduct that amount from their regular social assistance cheque.

It has been my experience and that of my colleagues that in many instances persons who have children with disabilities do not have a lot of disposable income to begin with. Many of them are both working, some of them at least two part-time jobs, so to think that they are going to have money that they can then turn around to compensate social assistance recipients is really — you're assuming a lot in that respect.

Of course, an additional feature of even getting and staying on social assistance will be proper identification.

Finger scanning has been bandied about as a plausible — "Book 'em, Dano. You have the right to remain silent." So this is how you want Ontario to be?

Oh yes, and personal information on social assistance recipients will be shared between ministries, government agencies and heaven knows who else to increase efficiencies. The personal details of our private lives will be on display like graffiti on a bathroom wall. Why do you single us out as deserving of these measures? Our human right to privacy will be compromised by these measures. Our possession of dignity will be stripped away by these measures. Why do you want to subject social assistance recipients to microscopic scrutiny? Why not check out white-collar crime? You could harvest fortunes for your treasury coffers. The examination of unscrupulous businessmen's books would be a far more lucrative venture. But there's that word "business." Ontario is open for it, I hear.

This is an interesting point. We can take a closer look at ADP funding. Wow. Everyone is pretty excited that the assistive devices program will cover 100% of the cost for a wheelchair, walker or other similar items. Or will it cover 100%? The ODSP policy paper states that 100% of the ADP approved amount for equipment and supplies will be paid. Is "approved" the key word here? We know there's a catch because later in your document you discuss a "partnership with families." Families will be able to assist with the cost of assistive devices, health items, support services, accommodation and education for a family member with a disability.

First, you cannot legislate mandatory family support for an adult person with a disability. Besides, if ADP is going to cover 100% on the cost of assistive devices, that partnership with families is not necessary, or so we think. We lack defining features to this new ADP plan, but those features will be written up in regulations and policy manuals by government personnel for future implementation. It is no wonder that our excitement over 100% ADP coverage has turned into suspicion. What does it really mean?

Next, VRS versus employment supports: While the old way of doing things at VRS fades into the sunset, you will be introducing a new system of employment supports for people with disabilities. You will help remove barriers to employment by providing employment supports. The previous method was managed by the Ministry of Community and Social Services.

The new system will not necessarily be managed by a ministry office. A competition will be held for the administration of the new employment support system and the winner will get the contract for management. The winner will also decide who will get employment supports, how much support, and who will not. If an unfavourable decision is made, the applicant will have no recourse, no way to appeal the decision.

In addition to that, there's a certain amount of money allotted to this venture; \$18 million to start with. Many critics have pointed out that unless that amount increases, the need for employment supports will exceed the supply.

We'll end up with a backlog of applicants, just like it was before the new system.

If a person with a disability is looking for work, they may discover how common part-time work is nowadays. But they cannot afford to give up their social assistance for a part-time paycheck when their cost of living runs higher than the average person. Part-time work is not feasible for a person with a disability without another source of financial support.

Besides, people with disabilities will be looking for work while unemployment is rampant everywhere, and the labour market will be filled with those who are already dealing with Ontario Works.

Just another aside. As was stated earlier, I've been here for most of the day and what I find — I guess it makes me hurt and it makes me angry. What you are in effect doing by rushing ahead without regulations is potentially pitting one minority against another. By framing these changes in the context of employment programs, we will potentially be scapegoated by members who are already living in poverty because they mistakenly believe that people with disabilities are taking jobs away from somebody who's able-bodied. That is not only laughable, but I find it personally insulting to those of us who have been working darned hard over the last two and a half years to support each other from various minority groups.

Even if that miracle happens and a person with a physical disability is selected for a good job, that person will need reliable transportation on a regular basis to keep that job. We know you can't promise us reliable, accessible transportation, since your involvement in that matter was relinquished on the downloading to municipalities. We were around to see that one too. The new employee can't afford to buy an accessible vehicle because government agencies made sure that money could not be saved on social assistance. You see the two-edged sword here.

Obviously, it takes more than a job to complete the picture here.

For your own reasons, a new definition of disability has been developed. "Permanently unemployable" has been dropped. Another criterion was developed. Three parts to the definition are joined by one word, "and," not "or." Although this had been referred to earlier in the day, I think by now you can realize that by just changing those words does not begin to deal with the issue. This could mean that all three parts must be true to qualify for the ODSP. We believe that the definition is complex and interpretation will be difficult. A real danger exists that more people will be excluded from the ODSP than included.

If you, the government, realize a substantial saving from this new criteria, what will stop you from redrawing the lines once again by regulation or policy procedure? You could save even more money and all of this saving will come from your new definition. Congratulations. Fewer people will be classified as disabled, but they are all just words. By playing with these words, you are toying with people's lives.

Changing a word does not make a disability disappear. As elected officials, you must consider the human cost of your decisions. If you adopt some radical regulations, whole groups of people will be labelled ineligible for supports of one kind or another. When we try to study this new process, we realize that true understanding of the proposed plan will only be found in future regulations and policy manuals. These documents don't have to go through the legislative process either. Based on these future guidelines, it is possible that qualified recipients of the ODSP could be reviewed and retested for eligibility. There are no limits on review and retesting in the Social Assistance Reform Act.

1550

Money management: Bill 142 has a few things to say about the management of money by recipients. If someone with power decides that a recipient is not managing their funds well or that they are incapacitated, another person can be appointed to manage their money. I believe this point was made earlier. While there's a stipulation that the appointed money manager cannot be paid to do so, the issue of conflict of interest for the appointed manager has been neglected. This particular decision and appointment cannot be appealed. If the decision is a bad one, too bad. If the appointment is a bad one, too bad. The social assistance recipient can't appeal it. As was referred to earlier in the day, there are already laws on the books, so you don't have to reinvent the wheel again here, folks, but you insist on doing so. You are saying that someone comes along, takes away your decision-making power in your finances and you can't do anything about it. You wouldn't put up with that, would you? Why would you expect someone else to?

Bill 142 also opens the door to a new method of direct payment. Your government could pay rent or utilities directly for the social assistance recipient. The money would never cross the recipient's palm. Isn't that a demeaning, demoralizing, distasteful way to do business in Ontario? A person's dignity and choice could be ripped away without argument or reprieve. Aldous Huxley said that propaganda consists of the ability to make one set of people forget that certain other sets of people are human. Is this your intention with Bill 142?

Another sector of the bill says that you can make social assistance recipients sign a reimbursement agreement. This agreement will turn their social assistance into a loan. Then, if they are blessed with some money in the future, the government will expect them to turn it over to them. If they find a good job, the government will grab their income. What incentive is that? It sounds like legalized ransom to me.

This "ransom" appears again when social assistance recipients sign a lien on property they own. The details of that idea will appear in regulations, just like the other items in this bill. Does it just apply to real estate? Are you prepared to force the sale of property to get your money back? Will you put people out on the streets? Will the liens you apply reflect the dollar value of social assistance received or will it just be a cash grab?

In conclusion, the definition of disability needs to be broader and more inclusive. The definition should ensure that people can access supports, training if they wish, and employment, and provide a smooth return to social assistance if necessary: inclusion of people with disabilities with availability of supports, not Big Brother watching over their shoulder ready to accuse them of fraud.

No matter who manages future social assistance in Ontario, there must be an avenue of appeal for people in that system and people rejected by the system. People with disabilities are not society's castoffs. We contribute colour and definition to the tapestry of our communities. As was said earlier, we do a lot of volunteer work that isn't recognized.

Will you recognize these facts? Will you listen to us or will you just pass this bill the way it is? Judging by the latest press release, I think I know my answer from Janet Ecker.

Your decision can build constructive improvements for people with disabilities, or Bill 142 can wreak havoc and destruction in our lives. Which will it be?

The Chair: Thank you very much, Mr Balcom. You've made a very moving and articulate presentation here today. Unfortunately, you've used up all of your time —

Mr Balcom: I'm not surprised.

The Chair: — and there won't be any time for questions. Thanks so much.

Father Capitano: I would be happy to give up my time to this gentleman. I'm sure I've only got a couple of minutes, but you have my presentation complete, so I would give up my time.

The Chair: Thank you, Father. Is there consensus on the committee with respect to that? Terrific. Then we have about two minutes per caucus, and we begin with Mr Kormos of the NDP.

Mr Kormos: Thank you, Father, and thank you, Mr Balcom.

On the whole employment support issue, you've got to understand that the parliamentary assistant has from time to time said, "Oh, it was a misprint," or a typo, what have you. I think this is a very skilfully drafted bill. What I found remarkable — and the earlier commentator, I think from AIDS Windsor, said the appeal from employment supports isn't there. It says employment supports "may be provided." You see, there's no right to employment supports. That's the reason why there's no appeal, because if there's no right, there's nothing to appeal. In other words, it's entirely discretionary, and that frightens the daylight out of me. I don't know how you feel about that.

Mr Balcom: You find that in the context in a lot of this bill. If you recall, I made reference to the ADP funding. That's another example. On the surface it seems wonderful, but if you stopped and you stepped back and you scrutinized it a little more, you would realize that the regulations will retain the majority of how this bill will be put in context. It is very scary.

Mr Carroll: Just a couple of quick points of clarification. The new definition of disability, your point about the "or" replacing "and": That is in fact what we've clarified will happen. But you're concerned about us dropping the terminology "permanently unemployable." My understanding was that the disabled community asked us to drop that terminology.

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Mr Balcom: I believe you're somewhat incorrect. It's not the term. I'm sure you got consensus around "permanently unemployable." You would get consensus about removing that because it was stigmatizing in and of itself.

Our concern and the concern of my colleagues is, what are you replacing it with? You acknowledge that some of your definitions need to be worked on, and again the further acknowledgement that we have to wait to see the regulations. Anybody who has been around the horn as long as I and my colleagues have been around knows darn well that it's not just the legislation, it's the regulations that underpin the legislation you have to be concerned with, because that's the enforcement. That's where our concern lies primarily.

Mrs Papatello: Thank you so much for spending the day with us despite the chaos. I found your presentation very compelling.

I'd like a comment from you. This is what Minister Ecker said subsequent to our hearings in North Bay on Monday. She said there's no turning back from Bill 142. "The pilot stage is finished," said Ecker. "Now the second phase is province-wide implementation." The headline for the article, even in the Ottawa Sun: "Tough Job Selling Mandatory Workfare."

I think that goes a long way to the explanation for a \$900,000 ad campaign, because it truly is propaganda.

Mr Balcom: No kidding.

Mrs Papatello: How do you feel, having come today, spent the day with us, when you hear the minister's own quote: "The second phase is province-wide implementation"? Here comes the steamroller.

Mr Balcom: Honestly? I'm not surprised, because it's the way this government has conducted itself. I'm just making a point here to illustrate your point. I've made many presentations at many public hearings. Unfortunately or fortunately, I was one of the ones who did the presentation on the health care reform. When the parliamentary assistant stood up and said to me that I cost the system too much money — and that's in a public hearing — does that surprise me at all? No. Am I insulted by it? Yes. Would anybody at any of the hearings — I was thinking specifically of those individuals who drove from Ottawa, who drove from Windsor and all over God's creation just to be heard. But it doesn't stop us from saying what needs to be said. The easy thing to do would be to get up and leave the room, but we're here anyway.

The Chair: Mr Balcom, we really do appreciate your coming here today. Thank you very much. My thanks also to Father Capitano for relinquishing his time.

The Windsor-Essex County Food Security Steering Committee, Mariette Baillargeon.

Mrs Pupatello: Madam Chair, I am wondering if we can have unanimous consent to have the London diocese finish. I know it does mean an extra three or four minutes, but there may in fact be questions to him if there was only the latter third of his report. May we have unanimous consent for that?

The Chair: Is there unanimous consent? No, there is not unanimous consent.

Mr Kormos: I'm sorry? I said agreed.

Mrs Pupatello: I said agreed.

The Chair: There was a nay.

Mr Kormos: I'm sorry. If Mrs Pupatello didn't say nay and I didn't, it must have been a Tory that said it.

WINDSOR-ESSEX COUNTY FOOD SECURITY STEERING COMMITTEE

The Chair: We can continue. Ms Baillargeon, thank you very much for being here. We appreciate that you came a long way to make your presentation.

Mr Kormos: Now you've not just ticked off the people of Ontario, you've ticked off God too.

The Chair: I trust, Mr Kormos, you're not speaking to the Chair in that regard.

Mr Kormos: I was talking to Mr Carroll.

Mr Carroll: May I have a point of clarification, please, Madam Chair?

The Chair: Yes.

Mr Carroll: Father Capitano, did you offer to give up your time?

Father Capitano: Yes, I did.

Mr Carroll: Thank you very much.

The Chair: Ms Baillargeon, you may proceed.

Mrs Mariette Baillargeon: Thank you. Members of the standing committee on social development, good afternoon. My name is Mariette Baillargeon, and for the past two years I have been the project coordinator for the Windsor-Essex County Food Security Steering Committee. I am here today to draw your attention to how Bill 142 does not ensure that individuals who receive social assistance benefits will be able to put food on their tables on a regular basis.

Food is essential to life and is a basic necessity for good health. Food security exists when people are able to access nutritious and safe foods on a regular basis in a way which maintains their human dignity. Those who are living with low incomes often struggle to access food and therefore experience food insecurity. Please note: Recipients of social assistance benefits are indeed low-income households because they fall well below the low-income cutoffs and therefore they are affected by food insecurity.

Our committee conducted a two-year project with funding from the Trillium Foundation to determine the underlying causes of food insecurity in our community because food assistance programs such as food banks and

soup kitchens are experiencing increasing difficulty to meet the need for emergency food. In order to make future initiatives effective, an assessment and review of current food-related programs was also needed.

We obtained information about how individuals access food in our community in many ways:

We held discussions with several groups of individuals who struggle to have enough food to eat on a regular basis to determine the barriers they encounter, their coping strategies and suggestions for improving access to food.

We completed interviews with more than 200 service providers from churches, schools, community groups and agencies and service clubs to document services offered and suggestions for improvement to services.

We conducted a food cost survey to determine how much it costs to eat nutritiously in Windsor-Essex county.

We reviewed dozens of reports that looked at food security issues and initiatives throughout Ontario and Canada.

The results of our research project are presented in our report, *Is There Food For All in Windsor-Essex County?* I have provided every member with a copy of the condensed version of this report. There are coloured flags that I have put on your copies that point out some of the relevant sections of that report that relate to what I'm going to discuss today.

The analysis of this information showed 14 key problem areas which we have called "gaps," and recommendations have been provided for each of these gaps.

The main gap identified in this research is the lack of financial resources in low-income households to purchase the food required. As one focus group participant stated, "There's always too much month left at the end of your money." Other living expenses such as shelter, transportation and child care are often fixed expenses which consume the household income.

Budget scenarios for three different household sizes were developed to look more closely at the issues of household incomes and expenses. It became evident that incomes from social assistance benefits are just not enough to make ends meet. I have provided you with copies of these three budgets to point out these inadequacies; those are the photocopied pages. Exhibit 1 is a budget for single employable males. Exhibit 2 is a budget for a single female parent with one child. Exhibit 3 is a budget for a couple and two children.

The first column for each of the households presents the budget based on an income solely from social assistance benefits. I would first like to draw your attention to the shelter costs. Shelter costs are the largest expense for these households and it's difficult to decrease because low-cost housing is limited.

In comparing the shelter allowance and the shelter cost — I've circled those numbers in pink for you to make them easily identifiable — for each of these households, it is quickly apparent that current shelter allowances are not adequate to meet the real cost of shelter. In these situations the balance of the shelter cost is taken from the basic allowance. The basic allowance is meant to cover all

other expenses, including food costs. However, focus group participants and service providers told us that food is generally what they called the most flexible pot of money, and food is purchased with whatever money remains after paying for other expenses. Therefore, the more money that is used for other expenses such as to make up the differential for the shelter costs, the less money is available to purchase food. The money available for food is further reduced if utilities must be paid separate from the rental cost for the shelter.

The consequence of this is that these households have to look to food assistance programs in the community. They may go without certain services. Adults often will alter their food intake to make sure their children have enough to eat. In the worst situations the children's food intakes will be affected negatively.

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The inadequacy of the overall social assistance benefits is evident by looking at the balance for these budgets, and those numbers have been circled in yellow for you. You'll notice that all three households have negative balances at the end of the month with the basic expenses of transportation; telephone; other expenses, which include some clothing and household supplies; child care where necessary; and food. This food cost is if they were to buy the appropriate amount of nutritious food that they require to stay healthy. Again, most households make their budgets balance by decreasing the amount of money they spend on food. Therefore, they are less likely to buy enough nutritious food to stay healthy. This demonstrates the need to ensure financial resources provided by the social assistance system are adequate to meet actual living expenses.

Another issue that was identified as a gap in our report and that should be addressed through this legislation is the need for a more comprehensive approach to assess all the needs of individuals who are looking for financial assistance. Currently, consumers learn about programs in haphazard ways and are often frustrated by the fact that workers for the social assistance program seem only concerned with approving or disapproving their financial assistance. If the goal of the social programs is to support individuals until they can become more self-sufficient, then these programs must recognize that individuals often need more than just financial assistance. Proper assessment of educational and skill-building needs, needs related to entering and re-entering the workforce, and of course mental health concerns are all essential in order to decrease the amount of time individuals require social assistance benefits. Once needs are assessed, a plan to address these needs can be developed with the client. This type of assessment should be integrated into Bill 142.

The Windsor-Essex County Food Security Steering Committee is concerned that Bill 142 will not ensure that social assistance recipients will have adequate money to buy enough nutritious food to stay healthy or be able to access the complementary services they require. Both the Ontario Works Act, 1997, and the Ontario Disability Support Program Act, 1997, identify that the amount of

financial resources to be provided will be determined as part of the development of the regulations for these acts. The contents of these regulations are not known to the public.

We question how these rates for financial support will be determined. What assurance is there that there will be a logical calculation of rates that reflects real living expenses when current benefits do not meet needs? We believe there should be a commitment to provide adequate benefits to meet the basic needs of life, including food, in this legislation. In addition, we believe individuals should have the opportunity to receive the additional assistance they may need for physical or emotional/mental health needs.

We recommend that Bill 142 include the following as a definition to be used for subsequent determination of the amount of financial resources to be provided to help ensure food security for social assistance recipients:

(1) The income for shelter expenses will cover the average market rental values for shelter based on geographical location.

(2) The income for shelter expenses will cover the cost of utilities even if they are not included in the rental rate for a unit.

(3) The income will provide an allowance for food costs as a separate amount based on an objective measurement of the cost to eat nutritiously and as an addition to the basic allowance needed for other living expenses.

Further, the committee recommends the addition of a comprehensive assessment program for all social assistance beneficiaries and/or applicants to determine all of their physical and mental health needs and develop plans to meet these needs. This would help individuals address their personal issues and decrease the amount of time they may need to be dependent on the social assistance system.

These recommendations are based on food security issues studied in the Windsor-Essex county area. However, the research showed that these issues are similar for many communities across Ontario.

We ask that the members of this committee remember that healthy people are the foundation of healthy communities. Healthy individuals are more able to face the challenges of everyday life and reduce their dependence on the social assistance system. To be healthy, individuals must have access to the financial resources that will allow them to purchase nutritious food and proper access to resources that will assist with other physical or mental health needs.

Note: The cost of food insecurity is much greater than the cost of preventing food insecurity when you consider that food insecurity is associated with very high social and financial costs for the treatment of illnesses, diseases and/or disabilities, remedial teaching for children, lost potential productivity in the workforce by adults who are undernourished and lost productivity in the future because some children did not have the chance to develop to their full potential.

Please ensure that Bill 142 includes the provision of basic financial resources to allow people to meet the real costs of living and access to a comprehensive assessment

of their needs when they request assistance. These recommendations are necessary for individuals to be able to reach their full potential in our communities.

The Chair: We have a minute and a half per caucus. We begin with the Conservative caucus.

Mr Carroll: Thank you for your presentation. I want to turn to exhibit 3, your scenario 9 and scenario 10. Scenario 9 shows a couple with two children on social assistance receiving \$1,384, which you say should be raised, and that same family, with one wage earner working 40 hours a week at \$6.85 an hour, making \$1,398. Would you give me some arguments that I could use to that person who goes out and works for 40 hours at \$6.85 an hour why they should continue to work when you suggest they would make less money than they should make on social assistance? Can you help me with some arguments that I could use on them to explain to them why they're better off working?

Ms Baillargeon: My problem is that in doing this assessment, we came to understand that the minimum wage is not sufficient to support people either, and that was part of our recommendations.

Mr Carroll: You're suggesting we raise the minimum wage too?

Ms Baillargeon: Yes.

Mr Papatello: Thanks so much for making the trip. As you well know by now, this government has refused to come to Windsor. I want to make sure my community understands that, and I will be reminding them over the course of the next two years.

The kind of description that you gave of Windsor-Essex county — and your group does a significant amount of research which is so valuable, to actually work from facts and not fiction. Can you give me some of the examples or tell the committee members the examples we have seen over the course of the last two years at places like our food banks, what they're seeing? When you have a balance of a negative figure on each exhibit that you have presented, where are they going? What are they doing?

Ms Baillargeon: There are different strategies used by different people. Everybody is going to address the problem in a different way.

Some of those strategies I talked about earlier. Some people will give up a lot of different things such as services, whether that be telephone, which really can be a very basic need — some people will have to give that up — as well as whatever else they can think of. They sell personal belongings. The issue of adults not eating very well in order to make sure that whatever money they have they can feed their children properly is another strategy that's used. Some individuals will go to the food banks or to the soup kitchens or whatever programs they have. Some families actually have to rely on some of the nourishment programs that are in the schools. They count on that one meal for their child, so they're buying food to feed them for the other meals.

We have seen that the usage of food banks and any kind of food-related assistance programs has drastically

increased since the cuts in social assistance benefits in October 1995. Many of the food bank operators in our area have said that their numbers have gone up 150% easily over one year.

Mrs Boyd: Thank you very much for providing a bit of a reality check and particularly for giving us the scenarios with the minimum wage. The parliamentary assistant seemed to be amazed at the notion that, if you have a low minimum wage, you see more and more people falling below the poverty line. The reality is that when minimum wage goes up, and that is paid by employers, then we, as the taxpayers, pay less in terms of the kinds of top-ups that we need to do in order to give people a decent living wage. Is that correct?

Ms Baillargeon: Yes.

Mrs Boyd: One of the things I really appreciate about your presentation is that you're very clear about the recommendations. What you're saying is that what the levels of benefits are should not be left up to regulation, that there should be an assurance, if we're really going to revise the system, that people will have enough money to feed and clothe and house themselves adequately.

Ms Baillargeon: That's exactly what we're requesting. We're not putting dollar figures on it. We just want it to be adequate to meet needs and that the adequacy should be determined by objective measures.

Mrs Boyd: And that should be worked into legislation, not left up to the minister.

Ms Baillargeon: Yes, exactly.

The Chair: Thank you very much for being here this afternoon, for waiting for your turn in what has been a very trying day. Have a safe trip back to Windsor.

The Client Group of the Region of Waterloo has deposited material and chosen not to present.

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THE BLESSING CENTRE

The Chair: We will move to the Blessing Centre, Marlene Delicart. Welcome. We're very pleased to have you here.

Mrs Marlene Delicart: My name is Marlene Delicart, and I am the co-founder and acting director of a community relief agency in downtown Kitchener and surrounding area. It was founded in 1983 to help and assist those in the K-W area who are less fortunate than ourselves. In other words, our agency is unique in the fact that we have a store which gives away food, clothing and small household goods and furniture without a cash register. We have always uniquely given to help and assist people less fortunate than ourselves.

We are completely staffed by volunteers. We have worked with many agencies and do work with many agencies in the city. We have worked with volunteers who cannot read or write. We do not have set criteria for volunteerism, because we train them ourselves in a hands-on situation and we are able to empower them and train them for the work they do with our agency.

I heard about Ontario Works and I became interested in it. I started asking, actually, some of my clients what exactly it was and why it was and they started to tell me some things. Because I've been working in the downtown core with people on some type of social assistance for the last 13 years, I hear a lot of things which we'll call "street talk" at a street level. Some of the things I heard were good and some of the things I heard were not good. But I personally was interested in it, so I phoned the people in authority and wanted to find out for myself.

When I found out some of the things that Ontario Works was doing to aid and assist people on social assistance where they could get skills, they could get training, they could get help, I think it's a marvellous idea. I think it's a good idea. It's not a matter of taking security systems away from people, because that will frighten everybody; it's a matter of, if we're going to do something and take something away, we don't just take it away, we lend a helping hand. There are a lot of people who would not have any opportunity to get help in any way if it were not for the Ontario Works program being implemented.

We personally are a host organization for Ontario Works. We have had six clients come through, and of those six clients, three of them now have jobs. We are looking forward to hosting another 16 to 20 people in the near future because of the agency and the fact that we're involved in a recycling program. I will let you know that we are totally independent; we are not government-funded nor are we funded by anyone else. The only money we receive is private donations or money that we are able to generate through our own fund-raising events.

As a host organization, we are in agreement with the help that people are getting. We are in agreement with the fact that people are being empowered and enabled to be helped in this way, that the things they receive are beneficial to them. I don't believe that it should be mandatory. I don't think we have the right to force people to do things. I don't think it should be a set law that you must do this or else we remove all your security systems.

I am not in agreement with that, but I am in agreement with the fact that if there are people out there who we can empower to give them a brighter future, we need to reach out a helping hand and help those people. It's very clear that we will always have disabled people, we will always have poor people with us, we will always have people who need help and we should always be willing to help those people as much as we can. But there also need to be some other plans in place where people who are able should be able to go out and work and be self-sufficient.

The Chair: Thank you very much, Ms Delicart. We have about four minutes per caucus. We begin with the Liberals.

Mrs Papatello: Thank you so much for coming today to speak to us. I was listening very intently to what you said. Just about 30 seconds ago you said something very critical to this process, that you don't believe it should be mandatory. I agree with you. The fact of the matter is, when you have an employment support program to assist individuals on assistance to actually get a job, you are

going to be flooded with recipients who want a program that works, that gets them into the workforce.

You said that out of your first six you managed to land jobs for three of them. I hope that those are long-term jobs for them and that they don't have to go back on the system. That's exactly the crux of the matter. When an employment program works and people can actually move from assistance into the workforce, we think that's wonderful. No one has ever disagreed with those kinds of things. The truth is, you've already done that and you've already got three people jobs out of this.

This is the bill here. This is the bill that has not passed third reading yet. We are in the midst of a public hearing process to discuss amendments, which I don't think the government's willing to listen to because they've now spent \$900,000 on an ad campaign. But you already did all this because you don't need Bill 142 to do what you're doing; in fact you've already done it. But here we are. It's only passed second reading; it's not even law yet. You've really made our point for us, and I'm very happy that you came, that you made a lot of people understand that what the government implements through regulation has nothing to do now with Bill 142. Our parliamentary assistant admitted that earlier.

Here they are, spending \$1 million on an ad campaign to talk about the wonders of workfare. They didn't need to pass 142 for you, in your way, to voluntarily involve yourself in a program that might actually employ people. You've already gone and done it. When you recognize what you've done, without the passage of a bill, you realize that if you have a good opportunity to train people for the workforce, that's exactly what the government should be doing, that it has everything to do with the fact that there were three jobs out there that those three people could actually get and you helped them get that.

The funny thing is that we thought for a moment that, "Boy, I don't know where she's going with this." The fact of the matter is, we agree completely with what you're doing. You're offering the kind of employment training opportunities for people to give those people an opportunity to get in the workforce, and I'm so pleased with it. Then when you said, "I don't agree with it being mandatory," there you are again. We're very supportive of your position. I'm just pleased that you said that and that you are exactly the proof that this government needs to see, that a program should not be mandatory, because when you have one that works, you will be absolutely flooded with people who desperately want your program. I thank you very much just for being there for them.

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Mrs Boyd: I'm very interested in both your organization and what you had to say. I really want to know a little bit more about it. What work were these six people doing? What work do you anticipate these 16 to 20 people will be doing?

Mrs Delicart: The 16 to 20 people will be working in a recycling program.

Mrs Boyd: Can you tell us a bit more about that?

Mrs Delicart: It's recycling of cardboard. They will learn how to recycle cardboard. But unless I had participated in Ontario Works, I would never have been able to get these people to come to my organization.

Mrs Boyd: Where do you sell the cardboard?

Mrs Delicart: We have an end user that we sell it to, which is part of our fund-raising effort. But we do not have set criteria for volunteers, because we train them.

Mrs Boyd: Help me with this. My understanding is that you don't actually pay these people yourself. They get their social assistance regularly from the social assistance provider.

Mrs Delicart: They do.

Mrs Boyd: Then they work for you for free.

Mrs Delicart: They come in as volunteers through Ontario Works.

Mrs Boyd: Yes. So far it's voluntary, yes. They come in and they do that work, which then enables you to sell the cardboard to an end user, which then gives your organization money to do the good works that you told us about.

Mrs Delicart: To continue to give away free goods.

Mrs Boyd: Does that put you in unfair competition with other organizations that do similar work?

Mrs Delicart: Why would it put me in unfair competition?

Mrs Boyd: We've just gone through an experience here in London where Goodwill Industries had to close down workshops where people were working on various forms of recycling because they couldn't manage to pay those people minimum wage. One of the real concerns that we have is that some of our community organizations that have worked in the area of recycling in many areas, and many who do very good work and very supportive work very much along the lines that you do, because they have been required to pay people minimum wage are no longer able to do that, and we see organizations like yours, and because this will be mandatory, whether you agree with that or not, who in fact will be filling that gap.

Mrs Delicart: We have always depended on volunteers and we have never said we would pay anybody. Because there was an opportunity to work with Ontario Works, as a director I took it. But should this not be made mandatory and should it fade away, I will still be able to carry forth my program and my agency because the thrust of it is that a lot of other agencies that get everything they have in their stores free of charge, get it from the community free of charge, then charge the community. We get it free of charge from the community and we give it back out free of charge.

Mrs Boyd: Believe me, I'm not at all criticizing what you do in your primary function. I think it's wonderful work and we do need it done in our communities, so don't get me wrong. What I'm concerned about is that of course although this is voluntary for people now, the force of this act will make it mandatory. In fact it will be enforced labour, and I would think that an organization like yours that is clearly compassionate and caring about people

would have real ethical qualms about using forced labour to carry on your enterprise.

Mrs Delicart: Let me put it this way. Because I have spent 13 years in the city downtown, I know there are needs that are real and I know there are a lot of things going on that are not real. People are receiving a lot of things and it's a type of mindset where they think they should get this and it should be free and life should be a free ride, and we, the government or country or Canada, should just give it to them. I have seen this every day for the last 13 years and I personally don't agree with it.

Interruption.

The Chair: Ladies and gentlemen, this is a hearing at which people are entitled to express their views. You may not agree with them, but everyone has a right to express whatever views they hold. I would ask you, please, not to interject and not to interrupt, out of respect for your own opinion and those of others.

Mr Frank Klees (York-Mackenzie): I believe your husband is here with you and I thought he was part of this delegation. I think he has something to say. I would invite you to come forward and make your comments on my time. We only have four minutes, but if you wouldn't mind doing that.

Mr Roman Delicart: Thank you very much for this great opportunity. I will tell these things the way they are. My name is Roman Delicart. I was the founder of the organization 13 years ago. Here is the co-founder, Marlene Delicart, my wife. As she stated before, for the last 13 years we have been working with the poor, with those who will not fit the criteria for volunteering in an organized community agency. Why? Because they come out of jail, maybe they suffer from alcohol, they are at times disabled. Sometimes they don't know how to read and write. We take them in and we provide a support for them to be able to be self-reliant. It's good to have something that will bring some structure about the voluntarism and about the labour force that is there so they are utilized.

I do believe that Ontario Works, especially with the immigrant community that we work with — we work with a lot of immigrants who because of the lack of language have no access to the services that are being provided. We work with them. We provide them a place with hands on the job. They are able to find themselves and adapt themselves to the new host country.

I know that different opinions have been expressed here, but ours is that without Ontario Works we wouldn't have the opportunity to empower people to become self-reliant. Everybody's entitled to their own opinion, but I have to say something without offending the committee, without offending the public, but talking from the point of view of a person who has been given a great opportunity in a country that I love. I'm willing to speak out for the things that will put us in the 21st century as humanitarians but also with a frame of work.

We don't have a vested interest in Ontario Works. We are not asking you for funding. The only thing we ask you is to observe what we do and if everybody's able to do in

cooperation with what already is in place, everybody will have a break and success will be for all Canadians. That is what it is. We believe we are a helping hand and Ontario Works gives us the greatest opportunity to bring people into the mainstream, to give an opportunity to stop the dependency on social assistance.

The Chair: Thank you very much to both of you for being here today. We appreciate your experiences and your views.

Ms Pupatello, before you speak, may I ask the Interfaith Social Assistance Reform Coalition, Rev Brice Balmer, to come forward.

Mrs Pupatello: Chair, the difficulty of adding people to the presentation table after and at the end is that we then can't direct our comments to both presenters, which would have been highly appropriate. In fact, since we haven't been able to, just as an example of my point, I'd like to say that all of the comments made by the additional member to the table have nothing to do with the passage of Bill 142, because what they're doing is happening without the bill.

Mr Klees: Unbelievable. You should be ashamed of yourself. Absolutely disgusting.

Mrs Pupatello: That's absolutely the truth.

The Chair: Mrs Pupatello. I acknowledge —
Interruption.

The Chair: Excuse me, ladies and gentlemen. I would ask the audience, please —

Interruption.

The Chair: Madam, you will have an opportunity to speak when your turn comes up.

Interruption.

The Chair: I'm sorry for that, but we do have to go on.

Ms Pupatello, I regret the incident. I understand your point that this was a situation which just was thrust upon us. It wasn't what we had expected. I appreciate your point that the opportunity should be made available to all of the members to question all of the deputants. Mr Klees, you caught us by surprise. I trust that won't happen again.

Mr Klees: May I speak to that, Madam Chair?

The Chair: Mr Klees, that's my ruling on that.

1640

INTERFAITH SOCIAL ASSISTANCE REFORM COALITION

The Chair: If we could move on to the Interfaith Social Assistance Reform Coalition. Rev Balmer, I notice you have a co-presenter.

Rev Brice Balmer: Yes, Susan Eagle from London is also here and I happen to be from Kitchener-Waterloo. We are both on the Interfaith Social Assistance Reform Coalition.

We want to thank you all for this opportunity. I will be following along with the document I have given you, but what I have chosen to do is to give you some illustrations that point out why some of our recommendations are in this document. Some of our information comes from our

neighbour-to-neighbour hearings and some of it comes from experiences that myself and other people have had, primarily in the Kitchener-Waterloo area where I happen to be a chaplain, a pastor and a community worker.

In neighbour-to-neighbour hearings, we've heard from people across the province that friends and other recipients of social assistance were afraid to testify, were exhibiting increased depression and anxiety and were becoming more isolated from family, friends and community groups. I don't think fear is the ideal or goal of a good government and probably is more indicative of authoritarianism and dictatorship. We're very upset that there is fear in our particular province.

I'd like to move on to the introduction. This month — in fact I just heard about it this past day — we had a single woman who was refused welfare in Kitchener because her rent was too high. We have advocated for her, as did Wayne Wettlaufer, who happens to be our MPP. He later came back to us, saying that the regulations from the Ministry of Community and Social Services agree with the case worker and the woman will not be able to receive welfare.

She has no other source of income and her rent was market rent as judged by our Ministry of Housing. In other words, the housing rate that we charge people who are paying full rate in our housing that is subsidized by the Ministry of Housing was what she was paying, but it was too expensive for the Comsoc regulations. Therefore, she now has no income, she's homeless and it's because of government regulations. We're deeply concerned about this question that was raised earlier about regulations, not just what's in the law.

I'd like to move on to the commitment to eliminate poverty, homelessness and hunger. After the publicity from this current government and the reduction of benefits by 21.6%, our Kitchener-Waterloo community agencies called on Elizabeth Witmer, asking that the negative stereotyping of social assistance recipients stop. How can we, as social agencies, increase donations of food, money and clothing as well as recruit volunteers when the government is blaming and stereotyping the poor?

We need vision in our province to decrease poverty, hunger and homelessness, because we are facing hard issues in the community as agencies. Mental illness has been deinstitutionalized, we have many people who are addicted because of long-standing problems, there are long-term effects of abuse and trauma and neglect from many of the past generations, there is increasing family disintegration and there is loss of extended family support.

One of the things that was mentioned in some of the last things I heard here is that we are having a difficult time in Kitchener-Waterloo because people no longer can afford to have a telephone and we cannot contact people any more. Our appliance repair person can't figure out how to get hold of the people to do the appliance repairs for the person who has refrigeration or a stove or whatever.

Our hostels for men, women and families are constantly noting an increase in mental illness and we can only afford

to hire paraprofessionals and provide just housing. We can't provide any remedial care. When we take the people to the hospital, to the crisis clinic, they're not accepted. Recently we had a man who was setting fires in garbage cans in our hostel and we could not get the crisis clinic or the police to commit the man. We also had no other way of dealing with this particular person. That's happening in our soup kitchens and in our communities.

Therefore, we recommend:

That Bill 142 be amended to clearly commit the Ontario government to the goal of the elimination of poverty, hunger and homelessness through its programs of social assistance, recognizing that we're dealing with some major issues, that this isn't personal choice that the people are the way they are.

That Bill 142 include principles which inform the specific provisions of the legislation and subsequent regulations. The regulations are really important to us and even an MPP can't stop the case worker from changing.

That the government of Ontario work to establish standards with the federal government and the provinces that reflect the expressed goals in international agreements.

Moving on to commitment to parents and children: Recently a 10-year-old child came to our community centre. We had had a potato drive and we had lots of potatoes. She asked if she could have potatoes and we gave her two bags of potatoes. She and several siblings came back. They had all eaten the potatoes raw, but she had cleaned her potato before she ate it. They were all well mannered. The little girl asked what services we provided. "Could you help my mom? She sits on the sofa all day."

About two months later at night the alarms went off in our community centre and several children were found eating bread and other food products in our community centre. We did not want to press charges, but we asked the question: Would family and children's services intervene if we didn't press charges? How do we provide help so that the parents can nurture these children? It's a very fearsome experience we're facing out in the community.

At the top of page 5 you'll see some of our recommendations:

That single parents with preschool and school-age children be exempted from new compulsory community service and mandatory unpaid labour requirements.

That as a support to employment, the government expand the number of child care spaces available. These children could have used child care.

That the government recommit itself to the provision of subsidized housing for low-income families and other vulnerable persons. Too many families are now in danger of homelessness.

A commitment to freely chosen work: In the Waterloo region we know very few people are in work placement. Agencies cannot participate in Ontario Works because of human rights and labour legislation questions, loss of our volunteer support, which relates to our constituency and our participants, and we're not willing to terminate a

person on Ontario Works and know that it will financially hurt them and their children. We also have pressure from United Appeal agencies and labour.

But we're frustrated when a mother comes in and claims this decrease due to Ontario Works. We have 30 to 40 people a week that our region claims they're eliminating from the welfare system. We know it's not true because we know there is very little participation in Ontario Works in the Waterloo region. We're upset that some of the things are not being said, some of the truth is not being told. You'll see on page 6 our recommendations around Ontario Works.

I'd like to tell you one quick story about the right of appeal. I work in an alcoholism recovery home. I had a young man who recovered from alcohol. He was six months sober. He was heading for vocational rehabilitation and had just been to school. He had been a previous grade 9 dropout. He had had a miserable existence for 20 years, and he got 95% in all of his school work.

There was a claim. Every time we went back to the appeal, we came back to the same welfare supervisor for this appeal. I think it's really important that we have objective people for this appeal, because I tried to advocate for him but I found it was impossible. You'll notice that our concern about appeal is there at the top of page 7. We need appeals. We can't always come back to the supervisor.

Finally, at the bottom of page 7 we recommend that the province maintain a primary role in the delivery of services and that the minister should not be the one who deregulates whole groups of people. Right now, we are facing the fact that alcoholics are being deregulated and it's causing us great consternation because they are becoming productive members in our society once they're sober.

1650

On page 8 you will notice there are some ethical, moral questions that we ask. They are not popular questions, but they're questions we feel need to be asked.

Is there a commitment to meeting the basic needs of food, clothing and shelter for all people? We wonder.

Is there a commitment to quality jobs that create adequate income and are permanent, especially for people who have worked to try to get themselves independent?

Is there a commitment to meeting basic needs for health, education and culture?

Is there a commitment to social and economic justice for women, children and youth?

Is there a commitment to providing a better world for future generations?

Is there a commitment to maintain the international standards and agreements that Canada has signed?

Is there a commitment to fairness in an environment where all people can contribute according to the gifts they have been given — we have a lot of welfare people who are volunteers in our programs — to create an equity that seeks to minimize gross disparities between rich and poor?

Is there a commitment to our responsibilities to fulfil obligations within the global human family, particularly to

the poor and oppressed, particularly to break the patterns of racism, sexism and classism in our province?

I want you to know that in our weekly worship services — Susan and I here represent a broad interfaith spectrum, not just ecumenical — and in our liturgies across the province, faith communities pray for political leaders and for governments and the bureaucracies. We pray that in your political vocation you will find wisdom and be guided by a vision for justice that God intends for all human communities and for the whole created world. We call you to that sense of justice and compassion.

The Chair: Thank you very much for your presentation. We have about two minutes per caucus for questions. You've left plenty of time. Ms Boyd for the NDP.

Mrs Boyd: Thank you very much. I will, as I'm sure all my colleagues will, read through your whole presentation and some of the information there. I can tell that you're very passionate about the work you do and I certainly know Susan's passionate about the work she does in our community.

The real issue of respecting those with whom you work is a basic concern, I know, of your organization. You do not believe that people deserve to be poor and you do not believe that there are the deserving poor and the others who deserve to be demonized, and I think that's what we see happening.

Can you tell us how your organization, in hearing the stories that you've heard all across the province, is communicating those to your congregations?

Mr Balmer: We are in the process of putting together a neighbour-to-neighbour report, which the MPPs will also be receiving. We have a framework that we put those reports in and at the end we're also putting questions so that people can do some theological reflection from whatever faith community they come from, to understand the human dignity of each person as created by God, and trying to help our congregations across this province look at what it means to be truly human — everybody human.

Mr Klees: Thank you very much for your presentation. I find that one of the benefits of these public hearings is that it's a twofold process. One is that it helps us to understand what people understand about not only the legislation but the proposed Ontario Works program as well. And it helps us to hear from people where perhaps some changes need to be made. From that standpoint it's a very helpful process.

I find that there's a great deal of misinformation about Ontario Works. I want to share with you that part of my responsibility is to travel the province and to meet with people in various communities about Ontario Works and to explain what it is and how it's intended to be implemented. I have opportunity to meet with a number of faith groups and I make a point of doing that at every community I go to.

I'm pleased to report that in many communities across the province we have very strong support from the faith community for the Ontario Works program, because when they understand it what they understand is that it is about doing many of the things you talk about in your

submission. It is about providing support services. It is about recognizing that people don't choose to be on social assistance. It is about recognizing that there are barriers they need help to overcome. It is about providing for them a helping hand, perhaps an understanding shoulder. It is about providing some basic support so that they can in fact understand and realize the benefits that come with getting involved back in the community.

You made reference to the fact, and one of the points you make is, that there needs to be an opportunity to get people back into the process. You made reference that you have many volunteers who are involved in your programs, and that essentially is what Ontario Works is about. It's about giving people an opportunity to become involved in meaningful community projects so that they can exercise many of the skills they have and once again taste what it means to be a participant in their community.

I strongly urge you to perhaps be willing to meet with us. I certainly will make myself available to you and to your colleagues in a forum where we can talk about the essence of Ontario Works, how it is in fact helping people across the province. No one is demonizing anyone here, contrary to the characterization that my good friends are laying on us. I think it is important that all of us come together, that where there are changes that need to be made to the program, we are willing to look at that. No one's suggesting this is perfect, but I think where we have to take some exception is when the motivation, when the intent, when the attitude is being challenged in a way that I think is unfair.

The Chair: Thank you, Mr Klees. Ms Papatello, for the Liberals.

Rev Susan Eagle: Can we make a response to that?

The Chair: Perhaps in the —

Mrs Papatello: I'll be very brief. We have a couple of minutes; I'll be less than one. I want to, with the grace of Father Capitano here, tell you that you have now had the papal hand laid on the head and I hope you're feeling much better about that. Mr Klees does that so well.

I want to be specific. There are some instances, for example, where people who are alcoholics who are currently on disability will be grandfathered into the new system. They will remain on disability. I guess the government assumes there will be no more alcoholics after this bill becomes law, because new cases are not going to fit the criteria. That's very clear.

Mr Balmer: It's already happening.

Mrs Papatello: Unfortunately, what he intends to patronize you with is simply not bearing out in fact. I will let you respond with my remaining time.

Ms Eagle: I'd like to respond, first of all, around Ontario Works. I'm very pleased, Mr Klees, that you are that concerned about helping people and I have to believe that you're sincere in that. However, my comment would be that all of those things could be done without making the program mandatory. Our experience is that every time the government offers supports or in fact takes away barriers, which might be more accurate, there is a lineup of people to access those services. So I don't think there

needs to be anything mandatory about the program. I suggest that if you really are sincere about that, you take away the mandatory nature of the workfare program and put a lot of money and supports where they need to be: in training and child care etc and helping promote job opportunities.

In terms of confusion, I think there is some confusion and there may be some confusion even among some of the MPPs who are promoting this legislation, because yesterday on CBC Radio I heard the minister say that there was no reference to taxpayers in the legislation, and I know it's right in the purpose clause of the act. So I have some concerns about how people are reading what's in the act and even if they're reading the act. My concern is that what we have here, once it's implemented, is going to affect a lot of people and I think it's after the fact that people are going to start to realize what the real consequences are of what's here in this 100 pages of legislation.

The Chair: Thank you both very much, Rev Balmer and Ms Eagle, for being here and sharing your views with us.

Mr Kormos: Chair, if Frank Klees is really sincere, he would restore welfare rates to where they were before you slashed them.

The Chair: Mr Kormos, please.

1700

COMMUNITY LIVING LONDON

The Chair: I call on Community Living London, Holly Mezon and Murray Hamilton. Welcome to our committee. We apologize for the delay. As you know, we've had some interruptions today which were unpredictable.

Ms Holly Mezon: Thank you very much. My name is Holly Mezon and I am the president of Community Living London. I'm a volunteer and the mother of a child with a developmental disability.

We realize that some of the issues we're going to speak about have already been addressed by previous delegates who, obviously, have found some common concerns about Bill 142.

I'm going to speak on behalf of more than 90,000 adults in Ontario who have a developmental disability. The goal of our provincial association for community living is that all persons have the opportunity to participate effectively in community life. In order to achieve these goals, adults with a developmental disability require an effective social system that supports them to participate in community life and to adapt readily to crises and disruption.

Community Living London and the Ontario Association for Community Living support the legislative framework outlined by the minister when she introduced the Ontario Disability Support Program Act, namely, "to move persons with disabilities who are receiving income assistance and benefits through the family benefits program out of the welfare system, where they never should have been in the first place; to create a new and separate program for persons with disabilities to meet their unique needs and

protect their benefits; and to help remove barriers to employment for persons with disabilities."

We also support many key objectives as outlined by the Minister of Community and Social Services on the bill, such as an end to frequent retesting and reassessment to determine eligibility; provide lifelong support for individuals who require it; allow people to live as independently as possible; provide for unique costs that result from disability; end delays for reinstatement of benefits when someone loses his or her job; allow families to contribute to other costs to improve the quality of life for their family member; provide more generous rules governing family trusts.

However, as has been stated before, none of these elements are described in Bill 142. The legislation only provides the framework for the proposed social assistance system, while relying on regulations yet to be developed to describe the new system. There are approximately 112 areas of regulation-making authority. This is a major concern, as regulations can be easily changed without public consultation.

Key measurements of the quality of a support system for people with disabilities must be that the system is stable, reliable and long-term. How can the minister ensure that people receive supports that are lifelong, as she promised, when the system providing these supports can be changed at any time without public consultation?

Some of our concerns about the legislation must be raised. We'll specifically focus on schedule B of the bill, which deals with the Ontario Disability Support Program Act.

We note that the legal framework for the Ontario disability support program appears very similar to the framework in the Ontario Works section of the act. The purpose, as outlined in section 1, does not seem to create a unique disability support plan that moves people with disabilities out of the welfare system, but describes purposes that are almost identical to the Ontario Works section of the act. The act needs to articulate a new vision that spells out how Ontario will support new opportunities for people with a disability.

I'm losing my audience.

The Chair: You have our undivided attention, never fear. We're just going to close the door to make sure we hear you better. Please continue.

Ms Mezon: OACL has joined with others to express our concern that the definition of disability used in this legislation must be as inclusive as possible.

We also object to the qualifying word "substantial" that is used in clause (a) of the definition. I understand you're looking at those changes right now. It truly is an ambiguous term, and really there is no expectation in the act that this word would be further clarified by the regulations or guidelines. OACL fears this word may be used to exclude many people from the ODSP on the grounds that they are not disabled enough. In fact, we see no other explanation for the inclusion of the word. The definition is full of other less ambiguous qualifiers which suggest that a person's disability must represent a signifi-

cant barrier to their effective participation in society. It is redundant to say that their disability must be substantial.

We also object to the wording in clause 4(1)(b) that defines disability as "the direct and cumulative effect." I know Mr Balmer spoke to the fact of the use of "and/or," and you've said it is something you've already spoken to and are looking closely at. We see it as an unreasonable and unnecessarily high requirement that all three of these areas need to be represented for a person to be identified as disabled.

It is quite reasonable to expect that, for instance, a person will be capable of attending to his or her personal care but not function well in the community or at work and, as a result, have substantial restrictions in daily living. This definition suggests that this person is ineligible for benefits because they are capable of attending to their personal care needs.

Community Living London and the Ontario Association for Community Living are encouraged by the separation of income support and employment support. There is a concern, however, that as income levels rise and individuals become ineligible for income supports, employment supports will also be withdrawn. This legislation must ensure that employment supports are maintained as needed when income supports are no longer required.

OACL supports the transitional provision in the ODSPA that will grandfather those currently assessed as permanently unemployable. We are concerned, though, that persons with disabilities who are able to sustain employment for more than one year will need to go through a complete reassessment of eligibility should they lose that employment. Persons with a developmental disability frequently have a very tenuous hold on their employment. It is not unusual for many of our individuals we support to change jobs frequently after a year or so. We suggest a lengthening of the period of automatic reinstatement to the ODSPA for at least two years of uninterrupted work, employment.

The ODSPA very clearly links eligibility for employment support to a competitive employment goal and removing barriers that stand in the way of it. The definition of "competitive employment" could present another barrier for persons with a developmental disability.

Young adults leaving high school urgently require employment supports; however, the goal of competitive employment may not always apply. Often a goal of part-time employment or work experience or even voluntarism in a work setting will enable a young person to participate meaningfully in community life. We applaud the recognition of employment support as a vital service, but recommend a broadening of the goal to include activities that go beyond the narrow interpretation of competitive employment.

Under ODSPA, according to a ministry backgrounder dated June 5, 1997, "the proposed employment supports will be delivered by local service coordinators who will be selected through a competitive process." If local service coordination is contracted to a for-profit company, based on unit prices for achieving placement in a competitive

employment setting, we would really worry that adults with a developmental disability would somehow or other be passed over because they have special employment support needs.

The ODSPA employment supports, according to the ministry backgrounder, also will include a broad range of services, such as employment planning assistance, interpreters, technological aids and devices, skills development and ongoing job supports. However, the funding envisaged, which is very limited — \$18 million annually for now, increasing to \$35 million on full implementation — is not enough to provide supports provincially for those who want employment or have potential for it. We feel that unless new dollars are put in, the ODSPA may develop the same backlog problem as VRS now has.

The bill points out in section 7, "The director shall in prescribed circumstances, as a condition of eligibility, require a recipient or a dependant who owns or has an interest in property to consent to the ministry having a lien against the property, in accordance with the regulations." The bill does not identify what those prescribed circumstances might be and it is left to the regulations for a description. The imposition of liens goes against the intent of the bill, which is to promote independence and dignity for persons with disabilities.

Subsection 12(1) allows the director to "appoint a person to act for a recipient if there is no guardian of property or trustee for the recipient and the director is satisfied that,

"(a) the recipient is using or is likely to use his or her income support in a way that is not for the benefit of a member of the benefit unit; or

"(b) the recipient is incapacitated or is incapable of handling his or her affairs."

We are very concerned that there is no indication of how the director determines the inappropriate use of funds or the incapability of an individual to handle his or her affairs. Additionally, we raise serious concerns about paragraph 21(2)4, which denies a person an appeal of the director's decision to appoint someone to act for the recipient. There is a need for clear and specific guidelines which describe the circumstances under which a person can be appointed to act on a recipient's behalf.

1710

Clause 33(b) states that the person is eligible for employment supports when "the person intends to and is able to prepare for, accept or maintain competitive employment." Again, how will it be determined that a person with a disability is able to prepare for and maintain employment? It is unclear if the intended meaning is being in a position to work or is capable of working. If the meaning is the latter, we object, particularly as it impacts people with developmental disabilities and the historical view of being incapable of working. This phrase needs to be cleared up.

The denial of appeal under subsection 21(2) to the tribunal for anything related to employment supports removes important safeguards now available in existing legislation. We recommend that there be a standardization

of appeal and dispute resolution processes. It is inappropriate for individual service coordinators to develop and implement individual processes within the legislation. We are looking for a mechanism that will be clear and consistent across the province.

Paragraph 21(2)3 also denies any appeal of "a decision to provide a portion of income support directly to a third party." While there may be circumstances under which this may be appropriate, people have a right to manage their affairs, and at a minimum must have the right to appeal any decision to direct their personal benefits to a third party.

Clause 33(c) also raises a major concern in that it gives the government the authority to declare entire classes of people ineligible for employment supports. To do this, the government needs simply to pass a regulation. The ministry has not given any indication as to how this power will be used under ODSPA. In an economic environment of 9% unemployment, it is not difficult to envision governments directing employment supports towards the most able and declaring ineligible those persons who have limited skills. This could further discriminate against those persons with a disability.

In conclusion, OACL's main issue with Bill 142 is that too much of the bill is left to the regulations, as has been stated before, and that few of the services that people need will be protected by legislation. While we support much of what the Ministry of Community and Social Services says they are trying to achieve with this legislation, it is impossible to support the bill with so much left unanswered. We ask that the government revisit the key elements of the Ontario Disability Support Program Act with a view to entrenching much more within the body of the legislation.

The Chair: There are three minutes remaining, one minute per caucus. We begin with the government.

Mr Carroll: Thank you very much for your presentation. On many of the issues you have raised, we understand your concern and they will be clarified.

On the issue of liens, just because a previous presenter also talked about turning these programs into loan programs, that is not the intention. As it relates to persons with disabilities, we have said time and time again — and we will make this clear somehow — that in no way do we have any intention of applying the lien provision to a person's primary residence if they are recipients of benefits under the ODSP.

Mrs Pupatello: Through your organization, you likely are aware of other programs through the provincial government that, because of their cutbacks, have affected individuals with disabilities. With some of the families you deal with, do you have any dealings with special services at home? Have you experienced cuts in those areas?

Mr Murray Hamilton: The major problem has been that there are many families who require more hours of support who are not able to receive those hours.

Mrs Pupatello: Are there people with hours today who have now fewer hours than they had last year?

Mr Hamilton: Yes. In many instances, many of the cases are being reviewed and families are ending up with

fewer hours. There seems to be a norm of about six hours per family, which is way too few for many families.

Mrs Pupatello: It's quite interesting the difference, I guess — just as a wrapup — that on the one hand the government takes inordinate measures to talk about how they're going to individualize things for people and really wrap the services around those with disabilities who may or may not eventually meet the criteria but then give those kinds of employment supports they need, and with the other breath, in an area like special services at home, as you say, there seems to be a norm of six hours regardless of the situation the family is in with these individuals with disabilities.

Mrs Boyd: Thank you very much for your presentation. It was very clear. I don't really have a question about what you have said here, because it is so clear, but I am curious about the programs you offer and how you see the programs you have offered using funding from vocational rehab being impacted by these changes in this program.

Mr Hamilton: The major issue for us is that this year in London alone 53 young people graduated from high school and there really are no employment supports for them or adequate leisure supports for them. The funding cutbacks have been frozen and we have not really moved along since 1992, so there are significant numbers of people requiring support, many of whom are living at home with elderly families. It is certainly a crisis.

The Chair: Thank you both very much, Ms Mezon and Mr Hamilton, for being here. We appreciate your presentation.

Mrs Boyd: On a point of order, Madam Chair: I would like to table a document that was given to me and to Mr Parker by the Rev Susan Eagle. It is a resolution that was passed by the United Church general council in August 1997, which says in part,

"The mission units and pastoral charges of the United Church of Canada and church-related organization will refuse to participate in any employment programs (a) which force social assistance recipients to accept employment which they have not freely chosen and/or (b) force social assistance recipients to involuntarily participate in work programs as a condition of eligibility for their welfare allowances (the preferred response is to promote the development of real)" —

The Chair: Thank you, Mrs Boyd. That's not a point of order, but you should know that it has already been tabled by a presenter in North Bay. The United Church of Canada presented that as part of their presentation.

Mrs Boyd: But on behalf of the London conference, we still —

The Chair: You may very well table it, yes, you may indeed.

AB CHAHBAR

The Chair: I ask Ab Chahbar to come forward. Welcome. I understand you were here earlier and we thank you for coming back again. You have 20 minutes

for your presentation. If time permits, the members will ask you some questions.

Mr Ab Chahbar: Thanks very much. I will not take the full 20 minutes, that's for sure. I understand you were flooded this morning, so I hope you're not over your heads this afternoon.

This has been a very busy day. We started off this morning at an event for a casino-free London. We were at a candidates' meeting at the University of Western Ontario this afternoon and we've got another one on tonight. This is a very busy time for all of us.

My name is Ab Chahbar. I'm a self-employed small business man and I currently hold the position of public school trustee in ward 1 for the city of London. I am also running as a candidate for council in the upcoming municipal election.

As I make my election rounds, I'm hearing more and more of people's concerns regarding the issue of welfare, and this is why I'm here today to speak, on this issue, in support of the government's initiatives — you heard me earlier say I was at one against the government this morning — to reform the welfare act and introduce the Ontario Works Act and the Ontario disability support program. I will concentrate more on the Ontario Works Act.

I understand that our general welfare system has not been overhauled in more than 30 years. I applaud — this is not a partisan speech, please understand that — the government of the day for fulfilling a commitment that they made two and a half years ago to return the welfare system to the fundamental principles on which it was created. Ontario Works restores the welfare system to its original purpose: a transitional program of last resort that provides people on welfare with a stepping stone back into the workforce.

In the last 26 months, between June 1995 and September 1997, over 230,000 people have stopped relying on the welfare system in Ontario. That's a decrease of almost 17% since 1995. I firmly believe that people are better off working than relying on welfare.

1720

Over 53,000 people on social assistance have participated in one or more of the mandatory activities in Ontario Works in the 51 Ontario Works municipalities that have been approved to date across the province. Ontario Works will help people who rely on welfare to develop skills, make contact with potential employers and give something back to their community.

Walking door to door in the last three weeks in the municipal campaign, I keep hearing people talk about welfare fraud. Personally, I don't believe that welfare fraud is a major problem. It does exist, but so do many other things exist in our system. However, if we can eliminate it, I support it. I think with this bill and with the modern technology that I understand is being used this will, not eliminate, because we can't eliminate it, but certainly lessen the opportunity for those who are defrauding those who need assistance most.

I'm sure we all know about cases where people are receiving welfare that they should not be receiving. The hotline that was instituted, I believe a couple of years ago, may have eliminated some 8,000 fraud cases — I'm sorry, not 8,000 cases; may have eliminated about 1,200 cases.

Mr Kormos: Nine.

Mr Chahbar: Was it 900?

Mrs Boyd: Nine.

Mr Chahbar: Nine cases? My research is a bit different. I'm certainly not going to debate that; if you say nine —

Mr Preston: It slowed a lot down, though.

Mr Chahbar: In fact, the Ontario Works Act would continue the welfare reform process by:

(1) Assisting people in financial need to become employed and achieve self-sufficiency.

(2) Ensure that assistance is directed to people who are truly in need. I think that should be a goal for all of us, to make sure that assistance goes to those people who need the assistance most. It's the role of every citizen to make sure that those people are looked after.

(3) We have to try to combat fraud and abuse and increase the accountability for taxpayers' dollars.

(4) Improve service through a single-level delivery system by the municipal government, which I'm hoping to be part of in the next three weeks.

(5) Reduce administrative costs and duplications that I have seen in my last so many years in public education at the school board and at the college board before that. Duplication costs a hell of a lot of money. If we can eliminate it and use that money to go to the people who need it and the people who deserve it, then we all succeed.

Under the Ontario Works Act, basic financial assistance would be provided to participants, including financial assistance for shelter and other basic needs and mandatory dental and vision care for children. The Ontario Works Act specifies the types of employment assistance that would be put in place to help participants achieve self-sufficiency, including (1) community participation activities that allow participants to acquire skills, confidence, contacts and opportunities to work while contributing to their community; it gives people the opportunity to gain back and to get back their self-respect; (2) job searches; (3) services to support job searches; (4) referral to basic education and job specific skills training; and (5) employment placement.

In conclusion, our welfare system must be fair to all people. Of course, it has to be fair to the taxpayer, who is part of the people. We owe it to people on welfare — and I mean that — to help them every bloody way we can to get them back to work if they are employable. If they can work, let's get them off the welfare rolls and let's get them to work. Let's train them; let's help them get back into the workforce. Equally, we owe it to taxpayers to make sure that their dollars are being used to help people who are truly in need.

The Ontario Works Act would truly give people — and I don't want to use a line that has been used before — a hand up rather than a hand down. I know a lot of people

who receive welfare. I deal with a lot of people who receive welfare. Believe me, a lot of them do not want to receive welfare. A lot of them want to get back into the workforce. You can help them do that by cutting the red tape, cutting the bureaucracy, putting incentives in place to get these people back to work and get them off the welfare rolls.

Every person we get off the welfare rolls becomes a contributing member to our society. Please understand, that's not to say they're not contributing members to our society. They are contributing members to our society. They are a part of our society and they're an integral part of our society, but they become a taxpayer where they start paying into the system. This is not a criticism at all. My utmost respect goes out to them. They don't want to be there; they're forced to be there.

The Chair: Thank you very much. We have just under three minutes per caucus. We begin with the NDP.

Mr Kormos: Thank you, Mr Chahbar. First, best wishes in the election campaign. I read the London Free Press and it looks like things are, in a peculiar way, heating up here in London on the municipal election scene for reasons that I can't even begin to fathom.

Mr Chahbar: Mr Kormos, that makes two of us.

Mr Kormos: You were very cautious in what you said, and I understand that, because you're going on the record, you're being recorded. Strangely, you and I agree, on the basis of what you said, probably far more than you might anticipate. But I want to ask you this: How does slashing social assistance by 22% help moms and their kids get off welfare?

Mr Chahbar: I don't think I spoke to that. I'm not sure that I would have followed the same tack in doing that, reducing by 22%. Maybe the reduction could have been higher in certain situations. The carte blanche of going across 22%, I'm not sure that I'm in agreement with that. Those who are exposed most became more exposed by doing that. The savings may have been higher than 22%. I'm not in disagreement with your question.

Mr Kormos: I appreciate that. We learned from folks who appeared today, who produced this document —

Mrs Boyd: The Windsor-Essex County —

Mr Kormos: — Food Security Steering Committee, that the rates especially after those reductions — we had one presenter talk about kids whose folks are relying upon social assistance breaking into a community centre to steal food. That reminds me of the stuff we read about in Dickens.

Mr Chahbar: I don't think that's the question you're asking. Things like that do happen. It doesn't have to be because of the reduction that occurred. That happens in everyday life. I think I answered the question you asked me.

Mr Kormos: I appreciate your concern about welfare fraud. During the course of these committee hearings we've heard estimates; in one case 1% to 3% and then another submission said as much as 5% of applicants are fraudulent.

Interjection.

Mr Kormos: Those were estimates. That's what we heard, anywhere from 1% to 5%. But we also heard estimates about the amount of income tax fraud being anywhere from 10% to 30% of income tax filers being engaged in some sort of fraud. Far be it from me —

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Mr Chahbar: Mr Kormos, that's a discussion for another day. We're not talking about income tax fraud. I fully agree with you. I thought I heard Mrs Boyd say I said 50%.

Mrs Boyd: No, Mr Klees, not me.

Mr Chahbar: I'm sorry. I did not say 50%.

Mr Kormos: Mr Klees has been in business. He'd be familiar with that.

The Chair: I'm going to give the floor to Mr Klees, for the government.

Mr Klees: Thank you for your reasoned presentation. I know that when you referred to your concern about fraud, you didn't intend anyone here to take that to its illogical conclusion.

Mr Chahbar: You're absolutely correct, sir.

Mr Klees: You didn't intend anyone to take that to mean that you believe that everybody on welfare is defrauding the system.

Mr Chahbar: I thought I made myself very clear on that issue. Absolutely not.

Mr Klees: You certainly made yourself clear to me. You're in the political arena and you now know what we face every day on these hearings. We attempt to deal with the facts and someone chooses to take this thing into another atmosphere. The fact of the matter is that we don't know the extent of fraud. What we do know is that if there's one dollar that is being collected by someone fraudulently, it's too much by one dollar.

Mr Chahbar: I think, sir, that I did say that it's one dollar that is not going to those who deserve to get that one dollar.

Mr Klees: Exactly right. For the record, because again there are those who would argue that we are trying to perpetuate a myth here, let me read this to you. The head of the Ontario Public Service Employees Union, which represents the welfare workers, has insisted that, "The fraud rate is way higher than the ministry is willing to admit to. It's at least 20% and may be as high as 40%." That was quoted in the Toronto Sun, January 25, 1994.

This isn't about whether it's 1% or 20%. I think we have a responsibility to the people on social assistance to make sure that every dollar that's paid gets paid to people who deserve it, who need it, and every dollar that is going to people in a fraudulent way is not available to pay to those people who really do need it.

I thank you for your comments. I thank you for the opportunity to clarify some of that and I wish you well in your endeavours over the next few weeks.

Mrs Papatello: I guess he makes the point strongly, our parliamentary assistant, that they don't know what fraud is.

Mr Preston: You never do until you catch them.

Mrs Pupatello: When you don't know, it's very difficult to understand why you bring in certain methods to prevent it. You don't know what the kind of fraud is, therefore you don't know what method of attack to get at this fraud. I don't think anyone at the table would ever disagree that fraud is fraud and that's criminal.

Very quickly on the matter of fingerprinting, would you consent to be fingerprinted today, you personally? Would you?

Mr Chahbar: Mrs Pupatello, I have absolutely nothing to hide.

Mrs Pupatello: Therefore you would?

Mr Chahbar: I have absolutely nothing to hide.

Mrs Pupatello: The question is, would you consent to be fingerprinted today?

Mr Chahbar: Why wouldn't I? I have absolutely nothing to hide.

Mrs Pupatello: You would do it?

Mr Chahbar: I certainly would. I don't have a problem with that at all. I swear to you, I'm not saying that because that's a government line or anything else. I couldn't care less. You're asking me personally and I personally have absolutely no problem with that.

Mrs Pupatello: I guess the point you make in saying that is that you as a taxpayer, I guess — you hold down a job and you pay taxes. Welfare recipients pay taxes as well, just so you're aware.

Mr Chahbar: Mrs Pupatello, let me —

Mrs Pupatello: I guess I am asking the question —

Mr Chahbar: I said the same thing. Don't shoot back at me.

Mrs Pupatello: Actually, those comments were for the parliamentary assistant.

Mr Chahbar: But you're asking me —

Mrs Pupatello: No, that's a comment.

So you would consent to be fingerprinted, and that makes the point exactly. If you would consent to be fingerprinted and we would fingerprint those with disabilities and those on welfare, most people probably won't have a problem because the point is it's the same; there's a fairness in the system that everyone gets fingerprinted. But that's not what's going to happen. You're going to have people for whom in many cases employment opportunities aren't there for them, they will be, but you, sir, won't be. In there lies inequity, and that's the problem.

You're running for election in the city. You're going to be responsible for property taxpayers if you win.

Mr Chahbar: I am now and I have been.

Mrs Pupatello: As a trustee, yes. Would you agree then with the city, most municipalities in Ontario, that social programs shouldn't be downloaded on to the property tax base because you personally as a councillor, if you win, won't be able to control the level of expenditure and yet you're being forced to cover those costs? The economics of downloading of social programs on to the municipalities — I might say the Minister of Housing and Municipal Affairs himself agrees that social programs should not be on the property tax base. Do you also agree with that?

Mr Chahbar: I agree that in Canada and in Ontario and in London there's only one taxpayer, so it doesn't matter to me if I'm paying it in London, in Toronto or in Ottawa. There's only one taxpayer here. Money does not come from other sources than the tax. If the municipalities can deliver the service better than the provincial government can, so be it. Let's not be afraid —

Mrs Pupatello: Let's answer this question then.

The Chair: Thank you, Mrs Pupatello. Thank you very much, Mr Chahbar, for being here. We're very grateful that you took time out of a busy schedule.

DAVID FILLMORE

PETER DIRKS

The Chair: May I ask David Fillmore to come forward. Welcome to our hearings, Mr Fillmore. I note you have someone with you. I wonder if you might introduce him for the record. Please proceed.

Mr David Fillmore: This is Peter Dirks I have with me today. He is co-chair of the VRS services division of OPSEU. He will help me field any questions that I might have difficulty with.

My name is David Fillmore. I was a vocational rehabilitation services counsellor for 15 years until I retired four years ago. Since that time I have been doing consulting and community work and have maintained a strong interest in the VRS program.

I have many concerns regarding Bill 142, particularly the employment supports section which will replace the Vocational Rehabilitation Services Act. The VRS program is perhaps one of the best rehabilitation programs in North America. It provides a comprehensive range of vocational services under one roof to all persons with disabilities in Ontario regardless of income.

At present, vocational services are consistently provided in all regions of the province and decisions can be appealed to the Social Assistance Review Board if there is a disagreement. Service provision is mandatory to all clients who qualify as vocationally handicapped and the act provides for disabled homemakers who require assistance in carrying out their function looking after their families.

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Some of you may not be aware that the Ministry of Community and Social Services completed its own in-depth review of the program about 10 years ago in a report done by Frank Reilly, then a program director. Mr Reilly found VRS to be a very cost-effective program, saving the ministry millions of dollars a year by getting people off social assistance and into employment, thereby paying taxes. According to his findings, for every dollar spent, the government saves \$4. He recommended continued VRS funding, stating very clearly that the program was doing what it was intended to do, that is, successfully getting persons with disabilities into employment. A more recent report done in 1992-93 reached similar conclusions.

When I compare the new legislation with the present act, I see many unresolved issues. The main problem with

the new legislation is that it can be interpreted very arbitrarily. It states that employment services "may" be provided instead of "shall" be provided. This single word "may" nullifies the legislation in that many service providers may simply decide not to provide any services, which would be an unacceptable situation. Persons with disabilities now have guaranteed services, but the new bill would do away with that provision.

Secondly, decisions regarding employment services are not subject to appeal under the new act. This means that persons with disabilities can be denied services and have no recourse to any appeal body. This again is a major setback for disability rights in Ontario.

Thirdly, employment services provided by the government are now being privatized to service coordinators who may or may not have an interest in persons with disabilities. This whole section is left unclear, with the government entering into a tendering process probably trying to look for the cheapest bidder to provide services to persons with disabilities. Canadians have found privatized health services, educational services and welfare services unacceptable. In the same way, privatized disability services are too. An additional concern is that there is nothing said about monitoring these agencies nor about evaluating the results.

The new legislation falls short in yet another way. Clients will no longer be provided with training allowances, so only those on social assistance or on ODSP will be provided with a living allowance. The vast majority of clients will be forced to go to OSAP for their living allowance, as well as for tuition and book costs, thus driving up their debt load. The average graduate has a debt load of \$25,000 to \$30,000. If a student, because of his disability, is required to attend only part-time, then his costs will skyrocket way beyond what could reasonably be repaid.

It should be noted that persons with disabilities earn less upon graduation and throughout their working lives than non-disabled persons and are in a much less favourable position to repay loans. The OSAP debt problem is already preventing many capable students from attending college or university, but for the disabled, this problem will be compounded.

A fifth point where the new legislation is less adequate than the present legislation in servicing disabled persons is that the kinds of employment supports to be available are left unaddressed. We have no idea what will be provided and what will not be provided.

Again, the legislation lets us down in not being clear about who will deliver these services. Private community service coordinators will tender bids on this work, with no guarantee that these service coordinators will have a strong background or interest in persons with disabilities. If they are being run for profit, there is a danger that the main goal will be to make money at the expense of services to the disabled. Privatization is unacceptable in health care, education, welfare services and other fields where caring services are required. How is it then that disability services are exempt from this consideration?

Think about this government's recent attempt at privatizing youth offender services at a boot camp, which seems to have been a disaster from day one.

There is a lengthy list of other concerns as well, such as limited access to home modifications and vehicle modifications, and homemakers being totally left out of the equation. Services to the marginal or severely disabled are also in doubt.

In summary, what we are seeing with this new legislation is a vastly inferior product which is reducing services, access, living allowances and a host of other things dressed up to look like improvements. I think the disabled community and advocacy groups will be shocked and angry about this betrayal once they see the fine print behind the ministry press releases.

The best thing to do at this point, under recommendations, is to leave vocational rehab out of Bill 142 and have a real consultation with community groups on the basis that the government will still be delivering top-quality vocational services to a broad range of persons with disabilities. The consultation process done to date was seriously flawed. Many groups were not consulted and present VRS clients and workers were ignored. I would suggest that the government go back to the drawing board on this one because the current proposal is so flawed it cannot be fixed.

The Chair: Thank you very much, Mr Fillmore. We begin with the government. You have approximately three minutes.

Mr Klees: Thank you for your presentation. We appreciate the critique that you've provided and I've certainly made a note of some of your concerns.

Could you comment with regard to some of the areas of the proposed legislation that address some of the supportive devices in terms of the government assuming 100% of the cost and eliminating the copayment? Is that something you feel is a step in the right direction? Is that an improvement over the previous legislation?

Mr Fillmore: We don't accept copayment. We believe the plan should be totally funded by the ministry, as it has been to date, and that it not be on a means test.

Mr Preston: It's 25% —

The Chair: Mr Preston, let the witness finish.

Mr Klees: There are some supportive devices that currently —

Mr Fillmore: The assistive devices?

Mr Klees: Yes.

Mr Fillmore: That doesn't come under vocational rehab.

Mr Klees: I was asking your opinion.

Mr Fillmore: VRS pays the additional 25%.

Mr Peter Dirks: It certainly does, so within that scenario you have a situation where a person in the past has had to apply for VRS, whether or not they normally would have. Under normal circumstances, they probably wouldn't have, had 100% been paid in the first place.

But within that context, we have to take a look at what's really happening here. Is 100% coverage in one area being done at the expense of cutting back other

areas? I take a look at the entire area of homemakers and services for homemakers, because under the VRS act, homemakers are defined as viable, employed persons. It's a form of employment, something that we all know. Being caregivers to our children, being members of a family is hard work. In that case, in the VRS model as it's being provided, homemakers receive the assistive devices they need to be able to maintain their role.

Mrs Papatello: You spoke about the concerns you have regarding privatization of voc rehab. I have concerns too. Can you give examples of how a private firm would come in and be paid to offer the services? Would it be a payment, sort of like a headhunter fee, if they placed them?

Mr Fillmore: That's my guess. It would be on a per-case basis, geared according to successful outcome. The agency that takes clients is going to get the best clients. They're going to cream the population to guarantee a good outcome.

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Mr Dirks: I think one of the things that agencies that provide services to persons with disabilities throughout the province require is core funding. Here we have a model where we're going to move to paying by the head, and if you move to paying by the head, you are going to get exactly what my colleague says in terms of cream.

Mrs Papatello: You take the best cases because they're apt to give you the most profit.

Mr Fillmore: That's right.

Mrs Papatello: I guess that really speaks to the argument about what services government should be privatizing and what government should be delivering, because of that kind of natural inclination of for-profit companies to look at the best way to make money. I'm not saying that private companies shouldn't be making profit; that's their purpose. But it does speak to the philosophy behind going in that direction for this kind of service. In the end there will be people who may or may not get adequate services because it's just not profitable for a private company to deliver that.

Mr Fillmore: That's correct. That's exactly our fear.

Mr Dirks: I think you're talking about certainly an ideological position in terms of the current government appearing to be headed towards pulling out of services, not providing services and not replacing what they're pulling away from with anything meaningful.

Mrs Papatello: If they went this route and they set the floor for what private companies had to do in order to perform in this area, I guess we would then take a wait-and-see approach. If you're going to go this route, then you also are obligated as government to set the ground rules: This is how you're going to be paid, this is how you level the playing field, so that, as we've seen with the Red Cross homemakers service, we don't put them in a position to be tossed out of service completely, and is it profitable in Kenora, just like it's profitable in Toronto?

Mr Kormos: When you're talking about the service coordinators and the privatizing of delivery, you're talking about an HMO type of fiasco.

Mr Fillmore: Could be.

Mr Dirks: Most certainly. What we see is a government that doesn't want to take responsibility for its own actions. It's very easy to funnel \$35 million to some body called a service coordinator which is then going to contract on a fee-for-service basis for some services, and again, no consistency. This legislation doesn't address the concerns of disabled consumers. The question is, why not? Why not provide disabled consumers with more information about the services they're going to get? I think that's a fair request.

Mr Kormos: I've said day in, day out that this is a very carefully drafted bit of legislation, very skilfully drafted. That's why it's crucial that the act says the prescribed employment and supports "may" be provided, as compared to "shall," because it's up to the service coordinator to determine what employment supports, if any, are going to be provided. So it's crucial that it be discretionary.

Mr Dirks: We can take a look at the current legislation, which certainly could be improved — everything can be improved — and certainly be enhanced. It takes an entire booklet to describe the services that have to be offered. In the new legislation I think employment supports receive four or five paragraphs, something of that nature.

Mr Kormos: So if this government is going to be taken seriously, it has got to make it imperative in the legislation that there is a baseline mandatory or obligatory level of service employments that a person in need shall receive.

Mr Fillmore: That's correct.

Mr Kormos: Otherwise the government's just talking a big game, it's all smoke and mirrors.

Mr Fillmore: That's right.

Mr Dirks: That's what I hear people who come to the table saying to me. We've heard it from Mr Murray Hamilton, a former area manager with the Ministry of Community and Social Services, a person who served the province well over the years. He is saying that this stuff needs to be tightened up. We're saying it needs to be tightened up. There are all sorts of people behind me who are saying it needs to be tightened up. We certainly hope that the committee will come to those kind of conclusions as well and see that the things that need to be put into the legislation get put in.

I think there's one thing we've got to talk about and that is, the new legislation talks about employment supports. The two areas where I get the most requests for services in VRS are retraining opportunities and job placement. Employment supports do not necessarily mean job placement. So until I see that's actually in the legislation, you're going to have me concerned.

You're also going to have me concerned when you're withdrawing retraining opportunities and forcing persons on to OSAP. If you take a look at what you need to qualify for OSAP, many people would find that problematic. A person with a disability, 18, leaving home for the first time going to university, may not qualify for the new ODSP

allowance. If they don't qualify for the ODSP allowance, they will have to apply for OSAP, but it'll be parental income and family income which will determine eligibility. Therefore, this disabled person's parent, who happens to have a car which is worth more than \$5,000, will find out that their disabled son or daughter cannot access OSAP. The devil is in the details.

The Chair: Thank you very much, Mr Dirks, Mr Fillmore, for being here tonight and sharing your views with us.

Mrs Papatello: Chair, could we get the other deputant's name, please? May I have your name, please?

Mr Dirks: Yes, it's Peter Dirks.

The Chair: May I ask the Mood Disorders Association of Ontario, Allan Strong, to come forward.

Mr Kormos: Chair, if I may, while Mr Strong is settling in, I've been asked to file some written submissions to the committee on behalf of Karen McCaffrey. I will not read them, of course, but for the purpose of reference, the first one is:

"The call has gone out among the women. There's much that we must do. We've heard the jackboots in the distance and they're coming for me and you."

The Chair: Mr Kormos, we will —

Interjection.

The Chair: Mr Preston.

Interjection.

The Chair: Mr Kormos, we will accept the deposition. Thank you.

Mr Kormos: So may I submit this, Chair, on behalf of Ms McCaffrey?

The Chair: So accepted.

Mr Kormos: One further written —

The Chair: That one I don't think we can accept.

Mr Kormos: They're both written submissions. I expect the Chair to receive both of them on behalf of Ms McCaffrey.

The Chair: We will be glad to accept the ones that are acceptable.

Mr Kormos: What's unacceptable?

Mr Preston: The way you presented it, to begin with.

MOOD DISORDERS ASSOCIATION OF ONTARIO

The Chair: Mr Strong, thank you very much for being here. You have 20 minutes to make your presentation and you have our undivided attention.

Mr Allan Strong: He certainly is a tough act to follow, isn't he? I don't mean to try to upstage Mr Kormos in any manner.

Mr Preston: Please do.

Mr Strong: My name is Allan Strong. I represent the Mood Disorders Association of Ontario. The association is a network of 40 support groups across the province which has as its members family members and consumers of mental health services. The people who are members of our groups are people who are affected primarily and

afflicted with mood disorders, such as bipolar affective disorder, clinical depression and other types of things.

I have an advantage speaking where I am because I can comment on previous speakers and I can also be quite brief. I'm sure you've heard a lot of stuff before and I don't want to repeat anything that's already been stated. I'm also in front of the big boys from London, so I don't want to steal any of their thunder.

Mr Kormos: Who might they be?

Mr Strong: What I'd like to do is start with a comment that was made by the minister on August 19, as part of the second reading debate on the bill: "This act recognizes that government, communities, families and individuals share responsibility providing such supports."

I'd like to focus specifically on disabilities.

"For people with disabilities, it produces better control over living and job supports, more assured income and a better chance of securing and retaining work. Fairness, accountability and effectiveness."

To paraphrase the minister, they're saying, "What we're trying to do is produce legislation for disabled individuals that is fair, accountable and effective."

They say: "There are unique costs that result from disability, and it is only fair that these be recognized more fully. Under the old system, for example, when a person with a disability found employment but the job did not work out for whatever reason, there are delays in the reinstatement of benefits. They have to reapply, leaving them for a period without disability benefits. That practice will end. Benefits will be reinstated immediately if the employment cannot continue."

As I said, that's from the August 19 Hansard. What the minister failed to mention is that if the employment goes beyond 12 months, the person has to reapply and then would be going through the process again. My concern is that if the person has to reapply and go through the whole rigmarole of reapplication, would they be then deemed not disabled because they've had a previous work history and then be shuffled off to Ontario Works, which is a completely different way of dealing with individuals with a disability?

That leads me into another comment, sort of a broad comment on the actual legislation which a couple of presenters have already said today. If you remove the disability component from both pieces of legislation, you've got something that's pretty well the same. Ontario Works almost equals the ODSP.

1800

The minister stated that in placing a lien, "The third...change here deals with recovery of some portion of the taxpayers' investment." The message the minister is sending is that the taxpayers are investing in people who are on welfare and who are on a disability. "An important authority conferred by the Ontario Works Act," and I underline that, the Ontario Works Act, "relates to the ability to place a lien on the residence of a person on welfare where circumstances warrant. The purpose is to allow taxpayers to recover a portion of their investment and support...." Once again, what's happening here is that

the statement by the minister suggests that this is a loan, that once the person has received work they can pay back, "but only when a home is eventually sold or refinanced or when ownership changes. No one is going to be forced to sell their home to satisfy such a lien."

I emphasize that was stated by the minister to be part of the Ontario Works Act and yet it appears as part of the Ontario disabled persons act. We're trying to support people with disabilities but we're treating them the same as people on welfare, and yet the intent of separating the two was to separate the disabled from welfare. Is this how you separate people? Is this how you create programs for a particular set of people, on one hand saying that they are different but then treating them the same?

The other concern I have primarily is the whole concept of delivery agents. The previous speaker spoke of privatization, particularly as it came to job employment supports. Even under the delivery of social assistance, delivery agents are designated under subsection 38(1):

"The minister may by regulation designate a municipality or district social services administration board as a delivery agent for each geographic area to exercise the powers and duties of a delivery agent in that geographic area."

I would also like to point out that the minister suggested that the areas that can be considered geographic areas are being reduced from 200 to 50, which I put to you would increase complexity and supports needed to carry out the administration in a larger area.

"A delivery agent may enter into an agreement with regard to any matter relating to the administration of this act or the provision of assistance in the delivery agent's geographic area, subject to the restrictions or conditions in the designation as delivery agent." What I'm afraid to suggest is that we have privatization of delivery of social assistance in this province.

Once again, what's left unclear is how regulations will be developed. My concern with regulations is that the minister, through Lieutenant Governor in Council or orders in council, can develop regulations without public consultation or without prior airing through the Legislature.

I said I would be brief, and I'm brief.

The Chair: We have about 13 minutes, so roughly four minutes per caucus. We begin with the official opposition.

Mrs Papatello: Thanks for coming to speak with us today. Despite you being followed by the big boys, we still have some questions for you. You obviously have actively followed statements by the minister. What you have discovered is that things the minister said do not actually appear in the bill we're discussing. What I found, in my brief two and a half years to date in the House, is that when something is even budgeted it isn't spent. There are all kinds of excuses and concoctions to delay expenditures into a new fiscal year.

What's the overall sense you're getting from the city of London and from this area concerning people's attitudes to clients your organization deals with?

Mr Strong: For clarification, I actually don't live in London; I live in Kitchener. Dealing within a provincial

context, a lot of the members of our groups are on some sort of disability pension now, so they'd be grandfathered under the act. Also in particular with the situation of a mood disorder, or bipolar, it's very cyclical. People may be well for some period of time, maybe four to five years, and then they may be ill and "disabled" for a period of time as well.

Mrs Papatello: We found an example that suddenly, with the passage of this bill, we're not going to have alcoholics any longer because they wouldn't qualify for disability if it affected their employment.

You raised an interesting point about the separation between those with disabilities and those who are on assistance and the necessity to have that separation. What we're discovering in talking to people through these hearings is that what seems to be very much the same among both groups is the opportunity for employment; that most people, whether you have disabilities or not, are finding the lack of job opportunity the key. The additional stress those with disabilities have is that they have a much more limited window to look through, and they have significantly more as an issue these employment supports: access to a certain type of transportation, not just any kind of bus, that kind of thing.

Mr Strong: What makes it difficult, particularly with people with mental health difficulties, is the cyclical nature of a lot of these disorders, the fact that people can be well and functional for a period of time, then not well and not functional for a period of time, so it's back and forth. Oftentimes there are profound gaps in the employment history. Then there's also the stigma attached to having a mental illness in our society. It makes it difficult for people who have been identified and labelled with a mental health problem to get employment because of gaps, and then there isn't training or there are very few actual programs available to people with profound mental health problems that address those unique needs of people with mental health problems.

We're looking at an employment situation that has to be extremely sensitive to the cyclical nature and the nature of the particular illnesses. I've met people who have been lawyers, accountants, highly successful people, but because of their illness they've been forced on to disability. I don't see how this particular legislation, as it's framed currently, would assist that person because, effectively, they're really being treated — I see the separation between welfare and disabilities being somewhat artificial. Really, it's just everyone is lumped in together.

Mr Kormos: Thank you kindly, Mr Strong. You made reference to section 7 of schedule B and its parallel in schedule A. What's interesting — we ran this past a lawyer who was appearing before us from the Ottawa-Renfrew area in the Ottawa hearings yesterday — is that the legislation is very carefully written. The commentary by the minister suggests a lien on one's home, one's real estate, one's real property, yet the section — and that's why we ran it past a lawyer and our fears were confirmed — is very carefully worded because it says "a lien against

the property," which the lawyer explained meant not just real property but chattels: a car, a television set.

Mr Strong: I agree that's a concern. "Property" isn't clearly defined. Is this going to be a regulation that's yet to be determined by an order in council, which takes it out of the purview of the Legislature and it's done essentially behind the scenes?

Mr Kormos: You've raised an issue that it should either say what it means or mean what it says.

Then on to the issue of reassessment and/or grandparenting: Ms Ecker was on the phone all day. She was calling every media outlet — almost as many as I did — in the province as part of her fanfare kicking off. That's what the reporters were telling me; they had just talked to Mrs Ecker. She was talking about the grandparenting of FBA recipients. Yet the section that's referred to, section 6 in schedule D, says "as long as the person is otherwise eligible for it," which implies clearly that they have to continue to be eligible under the new legislation, schedule B. Clearly the new legislation contemplates reassessments because it says, in section 9, if a recipient "fails to comply with or meet a condition of eligibility," the director can cancel or suspend the income support.

We have some concern about what the minister said and what the parliamentary assistants say and what the legislation says. Clearly there is a contemplation of reassessment not only for FBA but also ongoing reassessment. Again, for the people that you speak for, in the context of what you spoke about, the nature of or how the illness manifests itself, has got to be a frightening prospect in terms of the stability of the support.

Mr Strong: Yes. Particularly with mood disorders, the cyclical nature makes it difficult for people to maintain stability because they're up and down. Especially when you look at the 12-month provision: If the job goes beyond 12 months, then people would have to reapply. My concern would be, would they then be redefined as being disabled or would they be moved over to Ontario Works? I think it's a fair question.

1810

Mr Klees: You've raised a couple of points that certainly need clarification and that's why we're here.

Mrs Papatello: They need to be put in the bill.

Mr Strong: I appreciate the opportunity to be here, to have this opportunity, notwithstanding the rainstorm.

The Chair: Inside.

Mr Strong: Yes.

Mr Klees: If Mrs Papatello will allow me —

Mr Kormos: I think that was a sanitary sewer though. I'm not sure it was rain.

The Chair: Mr Kormos, this is Mr Klees's time.

Mr Kormos: I know that. I have to caution people about the waterfall.

The Chair: Mr Klees.

Mrs Papatello: I wonder if —

The Chair: Mrs Papatello, enough. Mr Klees —

Mrs Papatello: But on a point of order —

The Chair: I'm sure this is not a point of order.

Mrs Papatello: I wonder if the presenter would mind my joining you at the table to miss —

The Chair: This is not a point of order. Mr Klees, please.

Mr Klees: Could I just ask you a question?

Mr Strong: Sure.

Mr Klees: Clearly there is an obligation and a responsibility on the part of society, on the part of government to assist people who need our help and so we've tried to deliver some of those assurances through this act. For example, let's take a hypothetical situation. Someone inherits \$500,000.

Mr Kormos: Mike Harris did better than that.

Mr Klees: I understand so will you.

Someone inherits \$500,000, or \$150,000. Do you feel that under those extenuating circumstances it's appropriate to do a reassessment of an individual based on those new financial circumstances? Do you feel that because of the very fact that someone has come into some additional assets, it's reasonable and fair to expect a reassessment of the amount of contributions being made?

Mr Strong: Under my understanding of the current legislation and practices through welfare and through social assistance as it is currently administered in this province, that happens. My wife used to work for welfare, both in this city and in Kitchener-Waterloo, and that currently does happen if people do come into money.

Mr Klees: I just want to assure you that is the intent of the legislation you refer to. This is not about wanting to go on a so-called witchhunt. It's about just simply doing the responsible thing.

Mr Strong: My question to you then, Mr Klees, is why don't you say that? Why don't you put it that clearly in the legislation? Why is there the decision — the minister represents it as only being in Ontario Works and yet it's in the other piece of legislation. So I put it to you, sir, why don't you say that? As opposed to making it very cloudy and very vague and saying a lien on property when neither is defined, I would put it to this committee that I would charge you to go back and look at it and put it that clearly, if that's the intent.

Mr Klees: That's a fair comment and, as I said before, that's why we're here. I appreciate your advice on that and we'll certainly take that under consideration.

I think that had my colleagues not interfered with my time, I had a couple of other very important matters to discuss with you.

Mrs Papatello: I'd ask for unanimous consent to allow Mr Klees the time.

Mr Kormos: I'd give him five more minutes.

The Chair: Is there unanimous consent? I heard a no. Very well.

Mr Klees: Thank you very much.

Mr Strong: I'd be happy to talk with you later.

The Chair: Mr Strong, thank you very much for coming and being with us this afternoon.

CITY OF LONDON

The Chair: The city of London community services department, Joe Swan, Bob McNorgan and Patti Laframboise. I think there has been some change. I will ask whoever is empowered to introduce all of you and then you have 20 minutes to make your presentation.

Mr Joe Swan: Thank you, Madam Chair. I see you enjoy committee work as much as we do at city council and have enjoyable repartee around the horseshoe here.

My name is Councillor Joe Swan. I am the chair of our standing committee known as the community and protective services committee. In attendance are Patti Laframboise, who for the most part has helped us understand this legislation and has done a tremendous amount of research to help us understand the issues; Bob McNorgan, the division head for social services and employment; and Robert Collins, the director of recreation services and community planning.

I wanted to thank you all for providing the city of London with this opportunity to comment on the Social Assistance Reform Act. As you all know, this is a significant piece of legislation which unfortunately, given the number of other important proposed bills being debated at this time, in our view has not received the amount of public scrutiny or media coverage it generally requires.

We certainly do hope, however, that this public consultation process is the start that will bring attention to the potential impact of the legislation and, most important, highlight some of the key concerns our community has expressed and our council has prepared to take a position on.

There is no doubt that our municipality's responsibilities are growing and, at least in the near future, the new Ontario Works program is on its way in London and will be delivered. We will concentrate most of our remarks today on the proposed Ontario Works Act.

I would like to say that generally we all are in agreement that social policy will affect everyone in our community and must become very important to all of us. It is crucial that we understand how social policy impacts the very people it is designed to serve. As such, we in the city of London take every opportunity to understand social policy changes and, if necessary, shape our local policies to ensure a local vibrant and healthy community.

We traditionally as a municipality do not shirk responsibilities in this area, but we often take the approach that we must concentrate on facts. We tend to try to stay away as a community from partisanship. I think that what we're trying to express here today is rather a factual approach to our concerns.

In the city of London many people have been involved in a process known as Vision '96. It was a very substantial undertaking in our community in which we came up with the following vision to try to set the tone as to what's going on in our community. It reads as follows:

"We are a caring, responsive community committed to the health and wellbeing of Londoners. The actions we

take will be socially, environmentally and fiscally responsible so that our quality of life is enhanced and sustained for future generations. Our people, heritage, diverse economy, strategic location, land and resources are our strengths."

The reason we read that to you is that we believe the community of London is very principle-driven and that the people in this community are very committed to those principles and want to see them followed in all pieces of legislation, no matter which government or local politician is in place at the time and the day. That was only reinforced and strengthened during a very extensive process following annexation in this community.

One example I am sure you will have heard of earlier today and perhaps later on this evening is our efforts at the Ontario Works program. Our community was originally very divided on the business plan that was initially brought forward. Certainly the mandatory elements had caused a number of concerns in our community. We were fortunate to have a meeting with the Honourable Janet Ecker to work through a number of issues. Ms Ecker made it quite clear to us that the word "mandatory" was not going to be removed. But gratefully and thankfully we were able to work on 19 other principles that helped drive the business plan so that in fact we would continue to enhance client choice and ensure that people in our community had the widest range of options available to them. The minister was very gracious in accepting all of those conditions, save and except the mandatory policies.

Among those again we wanted to emphasize that in Ontario Works London we will honour client choice at every possible opportunity. Ontario Works London will support the most vulnerable in this community and will recognize at every opportunity the personal contributions that people make in their own environments and in their own way.

1820

We're very concerned about agency autonomy in the Ontario Works plan and we want to say to you that Ontario Works London will also respect agency autonomy for their own affairs as agencies delivering services.

Ontario Works London is committed to moving people to real jobs rather than just putting them into situations in which they may not feel they're contributing as much as they could. We want to ensure it's a real learning experience and a real job experience and will lead, as I say, to real jobs.

I'm also pleased to report that the mayor of this community had taken a very strong stand in partnership with our community and formed a group known as the Anti-Poverty Action Group. We worked with a number of partners in our community. A copy of that report is being submitted to you and I believe your legislative secretary will have that in front of them now.

I want to move into some of the more detailed aspects of the proposed legislation. Hopefully, you will understand the tone that we're trying to set here, which is that we lead by our principles and we follow with legislation that implements that.

The first thing we want to talk about is that we are pleased that the government of Ontario has chosen to reform the social assistance system by separating the general assistance income support program from the programs designed for the disabled. While we have not conducted an in-depth analysis of the proposed Ontario disability support program, the comments we have received from the community in general have been relatively positive in that separation.

Furthermore, we have agreed in principle with the efforts to streamline administration and delivery of the social assistance system. We feel that local communities can play a very valuable and important role in ensuring that efficiency can be realized.

That said, and in view of not having all the detailed regulations and guidelines which may address some of our issues, we do have some concerns — and that's why I'm sure we're having hearings — with the proposed legislation and we are respectfully asking your standing committee to address them now and certainly monitor them in the future.

I come back to our first principle in the sense that the legislation itself does not address the principles you are trying to follow and implement. We feel it would be helpful that, just like the federal social security reform that took place in 1994, you should attempt to put forward stated principles and to outline clearly those principles to make the entire community and those following the legislation aware of what you're trying to do.

There is a concern that this legislation is guided by an almost single purpose and that is to focus almost solely on finding and keeping of employment. There are those who have different situations and different environments that need to be addressed more fully. There seems to be an overconcentration or an overdeveloped focus in this area. Certainly we all recognize the extreme importance of it, but it does not apply to everyone we are talking about and you need to try and be more clear on that, we believe.

The second area we want to talk about is self-sufficiency and focus on that, if we can. In the past, the city of London has always stressed that social assistance should be linked to the philosophy and goals of self-sufficiency and autonomy, which in many cases but not all will mean employment. This new social assistance system must not assume that all people who currently depend on social assistance will be able to move fully into the employment market. That is just not our experience; it's not the reality.

Innovative ways to keep people motivated, marketable and moving towards self-sufficiency must be developed and implemented; there's no doubt about that. Recognition of the inherent differences among individuals on Ontario's social assistance caseloads in our view is crucial. Before you develop any new system, you must understand the complexity and the diversity of people who find themselves in this situation. That's why we believe self-sufficiency should be the ultimate goal of any social assistance program.

The third area we're raising as a concern is the lack of real detail to do a full and thorough analysis. We're anticipating that as this committee moves through its work

key details and key guidelines and regulations which we have not yet seen should be forthcoming to communities for further dialogue and discussion. The real impact on people is not yet fully understood until we see those regulations and details, and we look forward as a municipality to helping, contributing, negotiating and ensuring that we have a successful legislative reform.

The next area we wanted to talk about is a long-standing view of local councils across the province that we need to have greater involvement in the ongoing review and development of new programs. There continues to be, in our view, not enough involvement from the people who are going to have to actually deliver and make this thing work. I think there's tremendous talent and tremendous energy in local councils to help you do that.

The next area we might just highlight for you is the impact on people. We're very concerned about what it may well do to the most vulnerable people in our community, and perhaps in a question later we can talk a bit more about that, some of the impacts on our youth, our 60- to 64-year-olds and those who may not qualify for the new Ontario disability support program because they become disabled as a result of alcohol or drug intake. I think you've heard some of that today. We're very concerned about the interpretation and the impact in that area.

When we look specifically at youth, the requirement for this population to have a trustee or guardian in order to become eligible for social assistance has not been clarified, nor have clear guidelines to protect both the clients and the guardian, in our view, been put in place. Our key concern is that unless solid protections are put in place, vulnerable young people in our community could be put further at risk. An example could be a young person who agrees to pay a percentage of his or her social assistance cheque so that a person will agree to become his or her trustee or guardian; someone may be asked to make a contribution in order to make that happen. That's a high-risk situation. The point is this: Many of these young people come to us precisely because they don't have supportive family or community members who are willing to come forward and act as responsible adults, trustees or guardians. If they did, perhaps they wouldn't be coming to us for help in the first place. Again, we want to stress this new regulation may place vulnerable youth in a potentially exploitive situation. I'm sure that is not the intent of the government. We're concerned about that, as you probably are and should be.

In our experience, the system does currently provides a more than adequate number of safeguards to ensure effective use of the system. The system, in our view, is working quite well.

60- to 64-year-olds: Under the new Ontario Works Act, we will no longer be able to refer this population to a longer-term income maintenance program that provides them with a higher income and they may be required to participate in the Ontario Works program. The act is silent on this. However, given their age and the fact that many of these people are women with little or no previous work experience, the likelihood of them being able to find work

to supplement their social assistance income is very low. We raise it as a risk. It's a risk and we think you need to deal with that.

The next area is those who become disabled. There's no doubt great improvements are being put in place for those who qualify under the proposed Ontario disability support program; however, the term "disability" has been redefined to exempt those whose "impairment is caused by the presence in the person's body of alcohol, a drug or some other chemically active substance" the person has ingested. This new definition is essentially saying that how a person becomes disabled is more important than that the person is actually disabled and it effectively divides this group into the "deserving" and the "undeserving" disabled.

This, you can see, for us is a major concern. We don't believe that how a person becomes disabled is particularly relevant. We do believe, however, that drug and alcohol use is often an expression of other issues. Therefore, what does matter is that the person is in fact disabled and has some very specific needs that cannot be addressed by the staff involved in Ontario Works programs. Staff simply do not have the time or the skills required to effectively support this vulnerable population of people, given their current responsibilities. Obviously we point to the risk.

Other questions and concerns about the bill: There are a few others and I think you will hear them from other parts of the community. I heard the discussion earlier about the liens on property, the definitions of property and what that means.

I think it's also important to note that this represents a very small portion of the cases on London's general welfare caseload — just 4%. This new requirement will treat social assistance perhaps as a loan rather than a grant or entitlement for homeowners. This raises serious equity concerns between homeowners and non-homeowners, both of whom pay property taxes, but one is entitled to social assistance as a grant and the other as a loan.

1830

We have heard it said that social assistance is not intended to pay down mortgages of homeowners. That said, the vast majority, 89%, of our clients are renting in the private market, and therefore social assistance can be construed as paying down mortgages of landlords. We believe this is a red-herring argument and that our real goal together as a province and as a community is to eliminate the welfare cycle and create some wealth-building opportunities for all Ontarians. Needless to say, this may also represent an increased administrative load, an area that local municipalities are increasingly concerned about as we move through these changes.

Another area of concern is garnishment of the cheque. Currently, over half, 54%, of London's general welfare clients pay shelter amounts that exceed the maximum allowable. Therefore, over half our clients are having to pay for varying amounts of rent, heat and hydro from the basic needs portion of their allowances, which, as you know, is the money they get for food and other basic necessities. In our view, they simply cannot afford to have their cheques further reduced while living in poverty.

The recent task force only re-emphasized that point, and there is considerable discussion concerning the reduction in rates and its impact on poverty. Increasingly, the community is becoming very concerned about those impacts. I wanted to share that with you today.

Third-party payment should only be made on an exceptions basis. Third-party payment, in our view, is costly and discourages clients from making their own decisions, again coming back to self-sufficiency and self-determination as our guiding principles. The act is also unclear as to what portion of the cheque can be directed to third-party payments. For example, will the guidelines allow the delivery agent to direct 100% of the cheque, thereby leaving the client with potentially no disposable income? Perhaps that sounds a bit extreme, but you see the potential for risk. We want to manage and minimize that risk to people.

With respect to the word "resident," again the act does not speak clearly, or as clearly as it might, on how "resident" will be defined. We're concerned about the risk again, in that how different communities determine what the word "resident" will mean will make Ontario a bit of a patchwork of interpretations, which I'm sure is not your goal, but rather to provide equal and fair treatment to all people.

The other area is a "member of a prescribed class." This is a term that arises in the Ontario Works Act but is never again quite defined. Will it be used to exclude certain groups of people from receiving social assistance? Research has shown that in our friendly giant to the south, the US has in fact used this interpretation to exclude certain people, single people, from assistance.

Madam Chair, I know you've had a long day. You've had some unusual and exciting circumstances. I've been keeping my eye on the roof the whole time I've been sitting here. On behalf of the entire city council, I want to thank you for coming to London and taking the time away from your families and so on to listen to this community.

As we have already expressed to Minister Ecker and Assistant Deputy Minister Whalen, London remains always interested in piloting new and innovative ways to look at these programs and services and to evaluate new ways of doing business. We do that, however, always in partnership with the people it impacts upon and always trying to tell them up front what our principles and goals will be so they can truly understand in the end what the outcomes and impacts will be on them.

I hope we have today tried to remain somewhat outside the political debate, offered you some constructive suggestions and solutions, some risk areas that need to be managed, and hopefully some friendly amendments to your bill that you could deal with and ultimately have a healthy community in which we respect the diversity and the situation of all people in receipt of some form of income support or other supports to live a better life in Ontario.

The Chair: Councillor Swan, on behalf of the committee, let me thank you and your colleagues for your very thoughtful and constructive presentation. Regrettably, there won't be any time for questions. You've exhausted

all the time. But please take back to city hall that we've had a unique experience in London.

Mrs Pupatello: Chair, could I ask for unanimous consent that we could have about two or three minutes per caucus with this group? It's the only city representative we've had all day.

The Chair: Very well. Unanimous consent has been asked for. There appears to be unanimous consent, so we will have two minutes per caucus, beginning with the third party.

Mr Kormos: First, I think I speak for all our caucus in saying it's impressive to see the municipality approach this and produce the type of report it has. I appreciate your having highlighted a number of areas that are certainly of concern to the group of people who are participants, willingly, or unwillingly, more likely, in the system.

Going back to the very early part, where you talk about Ontario Works workfare, you say, "London will move people to real jobs." It has been said so many times, and even in a lapse the other day, Jack Carroll, the parliamentary assistant, said the real issue is jobs. None of the rest of this means a tinker's dam unless there are real jobs. Here in London you seem to understand that as well. How do you address that, "London will move people to real jobs," in the context of Ontario Works?

Mr Swan: I think London is moving to more of a focus of community economic development initiatives. We are beginning to recognize that we in London may well be the people who control our own future. We've put some structures in place just recently at council, a new Advanced London business group which is going to focus on wealth creation in this community. We want to set measurable targets for job growth and wealth creation in this community.

Mr Kormos, as you well know, creating jobs is no easy task. I want to come back to our principles of partnership. We want to have inclusivity as we build that. There are emerging industries in the high-tech area. We've got some community groups working on that. We're fortunate in London to have a very broad-based economy; it's a mixed economy. We have the university and strong health care. We have manufacturing groups like General Motors and Kellogg's and so on. We are now asking those individuals to specifically address poverty in London and how we specifically address job creation in this community. The role is not to look for third-party solutions or outside of your community. It belongs to us, and I think we're putting the structures in place to have measurable results.

The Chair: Thank you. For the government —

Mr Kormos: We'd like to thank you and the city for hosting us today. Only yesterday morning, I was reading the London paper —

The Chair: Thank you, Mr Kormos. Mr Preston for the government, please.

Mr Preston: Mr Kormos, you're taking my time again. Interjection.

The Chair: Mr Kormos, enough, please.

Mr Preston: I just want to correct something Mr Kormos said. It was not a slip by Mr Carroll that our

focus is jobs. It is the spearhead, the prime objective: real jobs. I told you it was going to be short.

Mr Klees: I too want to thank you for your presentation, which was very thoughtful. I want to correct you on one thing. Your presentation notes that this proposed bill is not principle-driven. I want to assure you that it is very much principle-driven.

Mr Kormos: All the principle that Bay Street can muster is in this bill.

Mr Klees: Mr Kormos, I didn't interrupt you. You continue to interrupt me, and I think it's rude.

Mr Kormos: It's undoubtedly rude, but it's so irresistible.

The Chair: Mr Kormos, enough, please.

Mr Klees: I just, for the record, want to assure you that the fundamental principle is two responsibilities. One is social responsibility and the responsibility we feel governments have to help people who cannot help themselves, and the second responsibility is personal responsibility, that those who can help themselves have an opportunity to do so. I think it's important that people in Ontario understand that this truly is principle-driven and that we want to do everything we can to help people. You've made other very helpful suggestions, and we'll take those into consideration.

1840

Mrs Pupatello: Thanks very much for the presentation. I very much enjoyed both the content and the style of writing. I'd like to ask you, as employers of the people who may or may not be meeting out the program, depending on if you're selected as the delivery agent for this region, how comfortable are you when we're aware that training dollars have not necessarily kept up with the pace of demand for training for social workers, and in this bill the social workers will now be given, if they are the eligibility review officers, the power to access and act under a search warrant? My question is the city's liability if the training isn't there. Any commentary from Chief Fantino on the issue? Has there been a change in your police force? Some of the front-line police people's initial reaction is, "Thank God we don't have to do that any more; we have bigger fish to fry." Any comments?

Mr Swan: It seems like a more detailed question. Perhaps Mr Collins could answer that for you.

Mr Robert Collins: That's why we're expressing the importance of the municipal role in the planning, the program delivery, the evaluation of this; it's to ensure that the right resources are being applied at the right time. Our concern has been in the past that we haven't had the resources, for instance, to change systems rapidly, to make them responsive, to have the talents and skills. So we're very clearly on record and that's implicit —

Mrs Pupatello: In this area specifically?

Mr Collins: — in this document, to ensure that there are adequate resources to allow any kind of transitioning and that those are shared and mutually planned to ensure that what is being proposed can be successfully delivered. That's always the concern from a municipal delivery perspective, to ensure that the resources are there prior to the expectation.

The Chair: Let me again thank you for your participation. We really do appreciate the preparation and your intervention here this evening.

Mr Swan: Madam Chair, I'd be remiss if I didn't just say to you the municipal budget is short next year \$21.2 million —

Ms Papatello: Is that on Hansard?

Mr Swan: — and I strongly encourage our continuing dialogue to ensure that we can fill that gap and keep delivering those programs.

The Chair: Thank you very much.

JUDY POTTER

The Chair: Last, but not least, Ms Judy Potter. Ms Potter, thank you. You've been here since 9 o'clock this morning and we are grateful to you for your patience.

Ms Judy Potter: First of all, I would like to thank the members of the committee for giving me this place on the agenda this afternoon. My name is Judy Potter. I am the administrator of three social programs funded by United Way and London Community Foundation in this city. I'm the former president of the Southdale Tenants Association. I'm on the mayor's anti-poverty action group advisory network. I'm the wife to a man afflicted with lupus and mother to a son affected with chronic learning disabilities.

Unfortunately — I did say that I work three jobs — not one of those jobs pays me enough money to take my family off social assistance. That is why I'm here today.

I have some real problems with a piece of legislation whose premise is based on an oxymoron, and I use the words "mandatory volunteerism." This is a prime example of an oxymoron and this is why I firmly feel this bill can never and should never be passed.

One of my first problems with the bill, as it sits, is that it does effectively become a loan program. This is further set by a third-party reimbursement order. Let us just say, for instance, ladies and gentlemen, that I had a Great-Aunt Gertie who had some financial means of her own. Under Bill 142 and Ontario Works, I could be charged to go to Aunt Gertie and ask her to sign an order to reimburse any funds that I would have been given. If Aunt Gertie declines to sign that piece of paper, it's clear in the legislation that my eligibility for assistance could be denied.

Second, my problem is with informal trustees. In the legislation it says anybody who's incapacitated, anybody who is likely to use that money not in their best interests or in the best interests of those to whom those benefits should come would have an informal trustee appointed for them, without any sort of appeal process. Does this mean to say that my estranged mother could call my worker and say I'm likely to go to bingo two times too often this month? And I don't go to bingo. The point remains, would my income review officer then be allowed to appoint my mom as my informal trustee? That could also translate to abusive spouses. That being the case, then I'm formally volunteering right now to be an informal trustee for 300 people whom I don't know.

Another point I'd like to make is, under the informal trusteeship, under the legislation it states that no person under the age of 18 will ever be in charge of their own finances. Is this going to reflect back? I'll give you a case scenario. You've got a young woman. Let's say she made a mistake when she was 14. Let's say she got pregnant. Let's say she is now 16 and has been caring for her child in a responsible, caring manner. By benefit of her age, under this legislation, she will never be in charge of her own finances. I ask this committee, is this just?

Third problem: EROs. Since when can an eligibility review officer have the right to walk into my home to procure and act on a search warrant against me? A glaring problem.

Another problem: privatization. This legislation leaves the door wide open for social justice services to be provided by GM, 3M, Ford, as it is being done in America by Loughheed. I put to Advanced London last week a statement that said very clearly that corporations are not historically known for their social conscience. I further reiterate that today, if this bill is passed as it is, it opens the door for just such a corporation to absolutely deny social justice and human rights to individuals.

The learned city administration spoke before and I really do applaud them for coming here today and showing some of the glaring problems with Bill 142. One of the big things I would like to explain to the panel today is that on page 3 of the third working draft of the London business plan for Ontario Works it states, "This is not a job creation program." It goes on later in that same document to say eligibility will be dependent on recipients, their spouses and "employable dependants," but that is not clarified. Who is going to be considered an employable dependant?

Third, in London today, anybody applying for general welfare in this city must sign an Ontario Works participation agreement. My understanding is that is not law yet. That is why we're here today. But in this city, although I can't prove it, people are being denied eligibility to general welfare because they won't sign or have not signed an agreement that is not yet law.

Another problem: these brilliant regulations. They're not clear, they're not written and they're not disclosed to the public. These will be done after this bill is passed, and who knows what is going to be in those regulations? These are changeable at whim, having nothing to do with the true democratic process.

Ontario Works: The wording is punitive and it is unclear. I am being punished for circumstances which are not of my choice. My son, whose future is in Ontario, will be punished because of a situation that is beyond his control. I'm terrified that my husband, who has lupus, although this disease is not a visibly debilitating disease, will be found not disabled enough under the Ontario Disability Support Program Act.

1850

I have so many problems with this. I have a real problem with indentured servitude. What happens in this bill is that I am not going to be paid for employment, although I might stand right beside a man at Ford. I am not

going to be paid a wage; I am only going to maintain eligibility for my benefits. I think this is a glaring injustice. I don't know anybody who is not willing to work if a sustainable wage is available to them. I feel this bill will just create an unpaid labour pool of indentured servants. The country of Australia was built on the backs of indentured servants. I hate to think that the country my mother brought me to in 1976 could even entertain a policy by which this becomes commonplace.

Goodwill Industries here in this city have laid off hundreds of workers without notice just recently. This is public knowledge. Once their EI benefits run out, they will be forced into Ontario Works, where they did have jobs with Goodwill. The danger inherent in this is that once you allow the private sector to come on board with this, more people who were being paid a regular wage will be displaced so that employers can grab from the pool of unpaid labour that will be available.

Ladies and gentlemen of this committee, I urge you very strongly to go back and make sure this is not just a done deal, to go back and change the wording so that it has justice and it has accountability and it has real democratic process in its happenstance.

Mr Preston, sir, I heard you in the hallway look at that woman and say that if she didn't smoke she might be able to feed her children

Mr Preston: That's already been settled, and quiet. We both realize we made mistakes out there.

Ms Potter: I would just like to say to you that a reality is that it would be cheaper for me to buy a package of cigarettes and not eat for a full day than the cost of the food for three meals one day for my family.

You're leaving people with very little choice in what they do. If this committee doesn't go back and really say, "Whoa, look at what you're doing," if we don't go back and change the wording and make it more inclusive and drop this mandatory volunteerism — people want to work. Get them jobs. Don't put in more legislation that is punitive, that is exclusive and that consistently creates a cycle of poverty. This legislation will do nothing to end child poverty in this city or this province. This legislation will do nothing to provide sustainable jobs for individuals who really do want to work.

That's about all I have to say. I thank you for your indulgence and I thank you for your time.

The Chair: Thank you very much, Ms Potter. We have about two minutes per caucus, if you'll entertain some questions. We start with the government.

Mr Klees: Thank you for your presentation. I guess the best I can do is to assure you that in the course of these hearings, we're listening. There are clearly some areas that we need to revisit in the legislation. There are some areas, no doubt, on which members around this committee will have to agree to disagree, because it is true that we approach some of these issues differently. While they may not be the same principles — obviously, we don't share the same principles — we do have principles. I think what we have to do at the end of the day is understand that the attitude here is that we want to help people and that we want, through this legislation, to make things better. I can

assure you that none of us around this table wants to make things worse for anyone.

This has been helpful, your comments have been helpful, and hopefully at the end of the day we can together make this a much better province.

Mrs Papatello: Thanks for waiting this evening to speak to us. We didn't expect that we would ask you to wait so long.

I have to tell you, I query the parliamentary assistant. The minister herself has made significant statements, not just to us and not just to reporters, but to municipalities she has met with, such as the group that was just here, and said very clearly that there are elements of this bill that simply will not change. We just go back to talk about what on earth we are doing here, spending taxpayers' money, that one taxpayer in Ontario. What are we doing here in a public hearing where they have just laid down the law, as only this group is capable of doing? Frankly, other Conservative governments in the past have never treated the legislative process with such little respect.

I say again that I'm very disappointed in a \$900,000 ad campaign that's meant for simple propaganda because the government isn't able to get the word out on its own. In fact, going to North Bay, the home of the Premier himself, they could not find one deputant at public hearings on Monday to support Bill 142. That speaks very clearly to the fact that even the Premier's home town can't agree with the behaviour that is coming out of this government. Thanks very much waiting for us tonight to speak with us.

Mr Preston: It was your leader who —

The Chair: Mr Preston, your caucus has had a turn already.

Mrs Boyd: Judy, thank you for your passion and for all the work you do. You are an expert on many of these areas —

Ms Potter: Especially poverty.

Mrs Boyd: — and thank heavens we waited to hear from you. I share your concerns about the mandatory volunteerism. That is the thing that sticks in most people's craw, because we know that people do want to work and that they will work if jobs are available.

Ms Potter: Sustainable employment.

Mrs Boyd: I also share your concern about privatization. The city of London and you both mentioned this Advanced London group. There's privatization. The economic development of this city has been privatized to big corporations —

Ms Potter: Municipal downloading.

Mrs Boyd: — and I really share your concern.

The Chair: Ms Potter, I want to express to you the appreciation of this committee. It took great courage to be here, but also great fortitude to stick it out all day long. We're very grateful for your intervention.

Ms Potter: I stick behind it. If we ever have a flood like that, I do know how to build an ark.

The Chair: Thank you very much. We might take you up on that if we ever come back to this hotel.

We reconvene tomorrow morning at the Sheraton Fallsview, Niagara.

The committee adjourned at 1858.

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First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

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Journal des débats (Hansard)

Jeudi 23 octobre 1997

Standing committee on social development

Social Assistance
Reform Act, 1997

Comité permanent des affaires sociales

Loi de 1997 sur la réforme
de l'aide sociale

Chair: Annamarie Castrilli
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Présidente : Annamarie Castrilli
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Thursday 23 October 1997

Jeudi 23 octobre 1997

The committee met at 0902 in the Sheraton Fallsview Hotel, Niagara Falls.

SOCIAL ASSISTANCE
REFORM ACT, 1997LOI DE 1997 SUR LA RÉFORME
DE L'AIDE SOCIALE

Consideration of Bill 142, An Act to revise the law related to Social Assistance by enacting the Ontario Works Act and the Ontario Disability Support Program Act, by repealing the Family Benefits Act, the Vocational Rehabilitation Services Act and the General Welfare Assistance Act and by amending several other Statutes / Projet de loi 142, Loi révisant la loi relative à l'aide sociale en édictant la Loi sur le programme Ontario au travail et la Loi sur le Programme ontarien de soutien aux personnes handicapées, en abrogeant la Loi sur les prestations familiales, la Loi sur les services de réadaptation professionnelle et la Loi sur l'aide sociale générale et en modifiant plusieurs autres lois.

CANADIAN UNION OF PUBLIC
EMPLOYEES, LOCAL 2191

The Chair (Mrs Annamarie Castrilli): Ladies and gentlemen, welcome to this, our last day of hearings on Bill 142. We're going to get started promptly. I ask Fred Hahn of CUPE Local 2191 to come forward. Thank you very much, Mr Hahn. We appreciate having you here. I notice you have someone with you. I'd ask you to introduce her. You then have 20 minutes to make your presentation, which you can use in any way you wish. If any time remains, the committee will ask you some questions.

Mr Fred Hahn: I'll start by introducing myself. My name is Fred Hahn. I'm the president of CUPE Local 2191. We have members who are employed with the Metropolitan Toronto Association for Community Living. We're one of the largest social service locals in the province of Ontario. I just want to be clear too that I am not a representative of our agency. I am a representative of the members of our local. It's my pleasure to introduce Michele Hamilton, who is also a member of our local. She is also currently a law student doing an intensive program at Parkdale legal clinic in Toronto.

I wanted to start out by letting the committee know that I did ask to make a presentation in Toronto but was told there wasn't sufficient space. After some discussion, I asked to be put on lists for other hearings. I was informed late on Tuesday morning that I would be allowed to come and speak to you here today and, consequently, wasn't able to fully prepare a written submission. I'd like to formally ask to be allowed to submit a written submission at a later date.

The Chair: Thank you. That's perfectly all right. It will form part of the formal proceedings.

Mr Hahn: Great. Thank you. I also wanted to start out by just asking briefly — I know that you are a rather large committee and I don't want to take up too much time — if any of you have had any particular experience in the social service delivery field?

Mr Peter L. Preston (Brant-Haldimand): Yes.

Mr Hahn: Were you a social services worker?

Mr Preston: No, it was my home for hard-to-serve boys.

Mr Hahn: You were the administrator?

Mr Preston: No, it's my home.

Mr Hahn: Oh, it's your home. I see. No one else has any particular experience in social services? Okay.

The Chair: Be gentle with us.

Mr Hahn: I wanted to know because of some of the comments I was hoping to make. I was hoping to have some common understanding in terms of people who understand the culture of social work. I'm glad to hear that someone has some experience.

Finally, in terms of starting, I wanted to talk a little bit about process because, as a social service worker, process is a very important part of the work that we do. Essentially in social services there seems to be a concept that if one understands the process that they're engaged in or that they must go through, then there can be a clear understanding of some of the outcomes that need to be a result of the actions that we take.

In relation to the process around these public hearings, I wanted to start by saying that I was concerned about the way they were announced and the amount of time allotted for the public hearings, simply because of course, as I'll go into in my presentation, there are a number of very fundamental changes to social service delivery proposed in these various acts and it's a little disturbing that there won't be sufficient time, in my view and in our members' view, to have feedback from the public.

As well, one of the tragedies, I think, is that the people who are going to be most directly impacted by this change in legislation, people receiving social service assistance, are most likely not going to be able to make presentations to committees like this. Often, of course, this group of individuals is disempowered and disfranchised, doesn't have the resources that, for example, unions or professional advocacy groups have to pull together presentations and actually gather the courage to come and talk to formal committees like yourselves.

Bill 142 proposes radical changes to social service delivery in the largest province in Canada. If reforms are needed, the reforms proposed here are absolutely massive and they could seriously and adversely affect what seems to be the intended goal in this legislation, which is to get people off of social service assistance. One of the first requests our local would like to make is that the process, in terms of examining these changes, be slowed down somewhat. Because of the vast measures undertaken in this legislation, it would seem only prudent to have impact studies done on each of the different components of the different pieces of legislation so that we might fully understand how these things will actually play out for people who receive service and who deliver service in the province.

I think it is fundamentally important to remember that changes in law which appear as words on paper will have a massive impact on the everyday lives of real people all across the province. It's important to understand that, while there are elements of this debate around social service delivery that centre clearly on ideology, even these points of ideology are ultimately going to personally affect real people's lives. I would hope, and I would urge all of you, to keep that concept paramount in your minds while you are listening to different presentations across the province.

I have reviewed some of the materials that were presented to the committee in Toronto and I found that there are some very detailed presentations around some of the measures in the bill, but I believe it's really important to reiterate some of the most fundamental and the huge range of changes that this bill represents. First of all, a fundamental shift in the reasons why we, as a province, provide income support; an introduction of the idea of income support as a form of a loan which must be repaid.

These changes in legislation will entrench workfare or work for welfare. They will exempt these people who are going to be considered some form of worker from current employment standards law and labour law. It opens up clearly the possibilities and opportunities for privatization of public services and social service delivery in our province. It changes the definition of disability and support for persons with disabilities. It gives new powers to welfare workers and officials over people's private and personal lives. It introduces real restrictions on the fundamental rights in our society to appeal any decisions made about our lives with which we do not agree, and it provides only a bare outline in law, leaving details to be stipulated in regulation, which means that most of the

fundamental issues can be decided, introduced, amended and enacted without notice or debate.

These are 10 things which the bill proposes to do, and any one of these things alone could have a massive impact in our province. To have all 10 of them and more happen simultaneously seems to our members to be quite scary. While all of the issues I mentioned are important, I know that there have been presentations on a variety of these issues, so I wanted to focus on a couple of fundamental points.

First, the concept of lending income support to people in need, reducing welfare to a loan by requiring repayment from future job earnings, putting a lien on people's homes and requiring third-party cosigners: This facet of the proposed legislation seems completely at odds with the goal of instilling self-sufficiency and long-term employment for people so that they can get off of the welfare system. This requirement fails to recognize that people have already paid for the welfare system through their tax dollars. It also means that it'll be harder for people to get off welfare and to make a new start when they do find employment, as the debt will follow them. It could mean that many people will lose their homes because their mortgages may not be renegotiated when there is a lien against them.

0910

Ideology aside, I think this clearly represents a disincentive for people to get off the welfare system. Once they've built up a debt that they know they can hardly ever repay, why leave the system at all? After making it impossible for a former recipient to better their financial situation, the hard reality is that a person may be working for a welfare cheque through unpaid community participation and yet end up having to pay all that money back out of future income.

Second, the element of workfare or work for welfare is also a key component of this bill, and this further entrenches this concept into income support, making it mandatory to perform some form of work to receive social assistance.

The bill outlines four main obligations of all recipients and dependants, which are to satisfy community participation requirements; participate in employment measures; accept and undertake basic education and job-specific skills training; and accept and maintain employment. There is no requirement that any of these above issues be reasonable or suitable or that the recipient or dependant be capable of doing them. The discussion is entirely with the welfare administrator. Once he or she has determined that the recipient has to do something, they must comply.

Many municipalities have indicated in their workfare business plan that they wish to maintain an element of choice and some degree of voluntarism. They say that the recipient should be able to choose what to participate in. However, the act does not allow for such a voluntary aspect. People cannot choose or even appeal their placements.

The obligation to accept and maintain employment has no qualifications or safeguards attached. There is no

requirement for the work to be legal, adequately compensated or safe. There is no requirement that the employer comply with any of what's left of Ontario's protective employment legislation, including the Ontario Human Rights Code. In fact the Ontario Works Act expressly provides that community participation activities and any other activity prescribed by regulation is not employment for the purposes of the act or any act or regulation that has provisions regulating employment or employees unless the regulations say otherwise.

The minister has said that only single parents with school-age children will be required to participate, but this is also not clearly stipulated in the act. If it comes in regulations, then it could be changed without notice. Given that recipients cannot appeal their placements, which may in some cases begin before or end after school classes or school hours, there is no provision to take the issue of child care into account, and we all know that we already have huge waiting lists for qualified day care spaces across our province.

It's estimated that there are 200,000 single mothers alone receiving assistance in Ontario and, again, estimated that 19,000 of them are in Metro Toronto, which means literally hundreds of thousands of children all across our province will be immediately and personally impacted by these changes.

Where exactly will this work come from? It's a well-accepted and sad fact that we've been struggling with double-digit unemployment rates for over a decade. Human Resources Development Canada said that there were slightly less than 31,000 job vacancies in the Toronto region as of June 1997. The month previous, Statistics Canada reported there were 207,000 people officially unemployed in the Toronto region, and that's people who are unemployed and actively looking for work. This doesn't take into account people who have stopped looking for work or people who are involuntarily employed part-time and who may be looking for full-time work.

If we assume that there is at least one job available for every job actually recorded by Human Resources Development Canada and, further, if we assume that the actual number of job seekers who are recorded now continues to exist in terms of people actively looking for work, it means there would be three job seekers for every job available. In fact that ratio is probably higher because the number of active job seekers may grow with welfare reform.

Second, the jobs registered with Human Resources Development Canada tend towards lower-paid and less-skilled requirements and may better reflect the kinds of jobs most social service recipients will be competing for. So in reality there may be seven or more job seekers for every job available to most social assistance recipients.

It's estimated that between 1997 and 1999 the Ontario economy could generate approximately between 200,000 and 300,000 new jobs, which is barely enough to absorb any new entrants into the labour market, never mind the potential of 250,000 to 300,000 people who will have Ontario Works requirements. It seems to me that these

figures alone demonstrate the need for an impact study simply on the introduction of workfare and its effect on unemployment rates.

Last, I wanted to talk a little bit about the agency that I work for and what has started to happen across our province in terms of demonizing some of the agencies that provide social services.

Our agency has had budget cuts from the funding ministry and has struggled to integrate those cuts and maintain service delivery. At the same time there is an increased demand for service delivery in the field that we provide services in, which is developmental services. With the introduction of workfare and the mandatory nature of workfare in the Ontario Works Act, employers like ours are going to be increasingly pressured to take workfare placements.

That pressure will not only come from the reality that there will be people looking for workfare placements but also from the reality that with increased budget demands and less staff but with increased demands for service, our employers and agencies like ours are going to be forced to look at this new form of voluntary labour. This of course brings up a whole number of issues in relation to accountability and training and quality service delivery for people with disabilities in our province.

Given the discussion this morning and my review of some of the materials also presented to the committee, on behalf of the 800 members of our local, I would like to recommend the following changes:

That the laws in Bill 142 must not be made exempt from existing legislation, especially employment standards, the Occupational Health and Safety Act and the Human Rights Code.

That when the Ontario Works Act office or the Ontario Disability Support Program Act office denies or cancels or reduces assistance, applicants must be given the reasons for that decision.

That basic appeal rights should be established and protected in the act.

That all exemptions to appeal rights listed in the OWA and the ODSPA must be removed, especially the direct payment arrangements, deductions from basic assistance, appointment of trustees and unsuitable workfare conditions.

Recipients of social services must have the right to an advocate in internal and tribunal appeals. Recipients must be fully informed of their rights and responsibilities. Tribunals need to be fair and they need to be impartial and accessible to recipients. Eligibility criteria should be revamped so that all persons in Ontario will have protection.

Levels of social assistance benefit must be studied and restored. Employment programs, training and education programs should retain a voluntary character.

The process for changing regulations must be transparent, and tribunals need to be independent and fair.

Welfare officials should not be given police powers such as the ability to obtain search warrants or other unidentified powers that can be given by regulation.

The Ontario Works Act must be fully monitored and evaluated to ensure that it is effective, accountable and fair.

The tribunal must not refuse to process appeals because they are considered frivolous.

There should be further public hearings and impact studies for all of the proposed changes in Bill 142, which would of course be the normal procedure of a democratic government. Thank you.

0920

The Chair: We have about two minutes per caucus. We begin with the official opposition.

Mrs Sandra Pupatello (Windsor-Sandwich): Thanks for coming this morning. I enjoyed your presentation and agree most likely with everything you've said.

This is already effective workfare. The truth is that the parliamentary assistant yesterday at the proceedings admitted that even without Bill 142 workfare is here. Comments by the minister herself said: "The pilot stage is finished. Now the second phase is province-wide implementation."

Yesterday we learned that \$900,000 is being spent on an ad campaign promoting workfare, and here we are, I suppose like a bunch of idiots, travelling all around the country all for naught because the minister is intent on passing this, with or without this whole process. We watch people coming in, genuinely believing they're speaking to a group of people who want to hear valid concerns about a bill so that amendments are going to be presented, and then we see the kind of comments the minister makes and we see the ad that's going to appear on radio, television and in newspapers across Ontario over the next little while.

I don't know how that makes you feel, but I'm embarrassed to be part of this sham of a proceeding. I'm feeling not very hopeful that there are going to be appropriate changes made to very basic justice issues, like the appeal process that you spoke to. But the truth is, this is the kind of group we're dealing with, and I hope in a couple of years we're going to have a government that's more prepared to deal with the real issue, which frankly is one of jobs. Thanks for coming.

Mr Hahn: Thanks. I appreciate your candour.

Mr Peter Kormos (Welland-Thorold): Thank you kindly. I suppose it's not inappropriate that there's an American flag in the room with us this morning, because this is very much part of the process of the Americanization of Ontario. There seem to be some people hell-bent on making us the Arkansas or the Mississippi of the north.

This process all began, obviously, with the slashing of welfare rates by 21.6%, 22% cuts to the poorest people in the province. That was quickly followed, I've got to tell you, by Bill 42, which was this government's proposal to increase MPPs' salaries by 40%. That's what the valuation of it is: an increase of payout to MPPs to the tune of 40%.

I wonder how many poor people in this province have been called upon to subsidize salary increases for MPPs; to subsidize Mike Harris's pension buyout; to subsidize

— Ms Pupatello talked about this — the just shy of \$1-million ad campaign to promote workfare because it doesn't have any legs of its own; to subsidize the \$70,000 Glen Wright spent redecorating his 1,000-square-foot office up at the Workers' Compensation Board after Mike Harris appointed him to replace the last workers' comp director.

We had a crisis in this country a couple of weeks ago, a crisis, and that was when unemployment stood a chance of dropping below 9%. That was a crisis our federal government responded to. They increased interest rates. God forbid that unemployment should drop below 9%. That's tragic.

Mr Frank Klees (York-Mackenzie): Thank you, Mr Hahn, for your presentation this morning. You made some passing comments regarding Ontario Works, specifically the workfare component of it. I assume you're not supportive of Ontario Works.

Mr Hahn: No, I'm not.

Mr Klees: Could you very briefly tell me why specifically?

Mr Hahn: There are two fundamental reasons. First of all, in a caring and fair society, people shouldn't have to work for social assistance.

Mr Klees: Do you —

Mr Hahn: I wasn't quite finished. I had a second reason. The second reason has to do with the work I perform and what I consider the real danger in terms of the disintegration of quality service delivery for people with disabilities in my particular field with the introduction of the Ontario Works Act.

Mr Klees: You're president of your CUPE local. No doubt you're familiar with your colleague who is president of the CUPE local in York region, Brad Black. You're aware that Mr Black has come out publicly, as quoted in a recent newspaper article, stating uncatagorically that he supports the Ontario Works program. In fact, as the president of the CUPE local he participated in a working group to develop the business plan because, in his words, he feels it's precisely the kind of program that is necessary to support people with whom he's working. Why would he see the wisdom of this program and you feel it is actually detrimental to people?

Mr Hahn: I don't know necessarily that he's seeing any wisdom, but what I would say to you is that the wonder of CUPE as an organization, unlike other organizations and political parties, is that we have what's called local autonomy, and individual people can have their own opinions and voice their own opinions.

The Chair: Mr Hahn, on that note, thank you very much for voicing your opinion here today, together with Ms Hamilton. We do appreciate it.

I ask Darrell Murphy to come forward, please. Is Mr Murphy here? If not, are Gracia Janes and David Terryberry of Niagara SARC here? Thank you very much.

Ms Gracia Janes: This is very different. I thought I'd be on at 10. Mr Terryberry is working.

The Chair: If you wish, we can wait. We'll just call a brief recess until your co-presenter is here.

Ms Janes: Perhaps we should, because there is another person who is supposed to be coming.

The Chair: Very well. Because we are ahead of time and we have some latitude, we'll just call a recess for a few minutes until your co-presenter is here.

Mr Klees: Chair, before you do that, I wonder if I can just take a couple of minutes to make a clarification for the benefit of the committee.

Mr Kormos: No, wait a second. By the time we hear you —

Mr Klees: The NDP are muzzling us again.

The Chair: Mr Klees, we'll hear you out for a couple of minutes.

Mr Klees: Thank you very much. It relates to the Ontario Works program that is in —

Mrs Papatello: The ad campaign?

Mr Kormos: Yes. What part of the \$1-million ad campaign?

The Chair: Mr Klees wants to make a point of clarification. I will allow him to do that because we have time. I will allow both of the other parties to make comments if they so choose.

Mr Klees: Please, after I'm finished, if they wouldn't mind respecting my time.

There has been some discussion and concern expressed about the fact that Ontario Works is currently implemented, and perhaps prior to Bill 142. Ms Papatello in particular is very confused about it. I would like to point out that the General Welfare Assistance Act, the regulations that were implemented in 1996, state under 4.3(3):

"A welfare administrator, with the approval of the director, shall establish a program which shall include all of the following:

"1. Community participation activities, including community improvement and community service projects.

"2. Employment support activities that may include basic education, job-specific skills training or structured job search activities.

"3. Employment placement activities."

All of these regulations give the authorization for the implementation of Ontario Works as it has been implemented across the province and continues to do so. What has been done, and in fact the ad Ms Papatello referred to, relates to the Ontario Works program that has been established across the province under the authority of these regulations. What Bill 142 does — and I think all of us have heard some substantive submissions from people across this province already — relates to very significant, positive changes that affect people with disabilities and affect people on social services in the province. For us to suggest that we're wasting our time is, first of all, an admission that we don't know what's in the bill and, second, is an insult to the many people who have come before us to make representation.

I wanted to have the committee understand what the difference is between the Ontario Works program that has been established across the province and that continues to evolve and Bill 142, which is before this committee.

The Chair: For the record, Mr Klees spoke for three minutes. I'll give three minutes to each of the other parties to respond, but please, no debate; just make your case.

Mr Preston: On a point of order, Madam Chair: At the end of each submission, there are individuals here who say, "May I clarify a point and bring it to the table?" and you have heard them every single time and have not granted equal time to everybody else. All of a sudden now, the government says, "May I make a clarification?" and everybody else has to get three minutes each.

0930

The Chair: Mr Preston, I don't want to dispute the record with you. I don't think it's exactly that way. These are extraordinary circumstances. We do have some time to fill, and it's in that vein that we're continuing.

Mr Preston: Oh, I see. When we're going to be followed immediately by another submission, we won't have questions.

The Chair: Thank you, Mr Preston. That's enough.

Mrs Papatello: While you may be the parliamentary assistant, I'll just quote the minister. Perhaps you should have more communication with your minister. What the minister says is, "There are 53,000 people to date across the province that are or have participated in workfare" — your minister's quote, Mr Parliamentary Assistant. She goes on to say: "Currently, 51 communities across Ontario are participating. The pilot stage is finished. The second phase is province-wide implementation."

The truth is that with or without these public hearings, your machine, the steamroller, is going forward with workfare. The reality is that people are coming to the table and making recommendations to this committee such as that the mandatory nature of this bill should be amended and it shouldn't be mandatory. Why are you allowing people to come to the table to even offer you suggestions when, very clearly, Mike Harris plans to steamroll over everyone, like he did the nurses that he called hula hoops, like he did the doctors when he said they're overpaid and underworked? Now it's the teachers' turn to be bashed.

The truth is that the people of Ontario are on to you, and the only reason for a \$1-million ad campaign is because you can't muster enough propaganda by bringing your sacred workfare across Ontario through hearings. You're spending an additional \$1 million of our taxpayers' money to propagandize a bill that you have seen for yourself has crashed and burned, even in North Bay, the Premier's own home town. Out of 24 deputations, every one of them was opposed to Bill 142, including the city of North Bay itself. I don't know what planet Mike Harris came from. He certainly couldn't have come from the same mentality of the people we all met in North Bay.

That is the reality of what we are hearing. The greatest concern of all is that one more time we are sitting here spending taxpayers' money making people believe there is actually hope when they come to the table and say there are real issues here, justice issues, never mind the moral ones. You have a majority government, and I guess you get the right to moralize over the rest of Ontario. But there are truly issues you need to address that clearly your own

minister and your own Premier are not paying attention to, and you're wasting our time.

The Chair: Mr Kormos, you have three minutes.

Interjections.

Mr Kormos: I'm waiting to acquire the floor, Chair.

The Chair: I suggest you take the floor.

Mr Kormos: Thank you kindly, Chair. I've got to say to the parliamentary assistant, Mr Klees, that he's far too good for us. He should have stayed with the Canadian Home Shopping Channel, selling whatever it was he was selling them.

The folks here in Niagara know exactly what Bill 142 is all about. It's about attacking the poor and the poorest. This government, rather than engaging in a war on poverty, has engaged in a frontal assault on the poor, and 142 is all about that: a 21.6% cut to the support plan for the poorest in our communities — women, kids — to pay for MPPs' 40% salary increase; to pay for Mike Harris's pension buyout, wherein Harris became an instant millionaire at the expense of the poorest in the province; to pay for a 30% tax break for the richest in this province. We're calling upon the poor here in Niagara Falls, throughout Niagara, throughout this province, to pay for these things. That's what 142 is all about. It's about slashing welfare rates, it's about denying that this government has been totally ineffective in even approaching its commitment to create 725,000 jobs.

I've got to give credit to Jack Carroll, Mr Klees's colleague, his co-parliamentary assistant, who finally acknowledged that the real issue is the fact that we have double-digit levels of unemployment in this province and that all the workfare in the world ain't going to get people out of poverty if we don't have real jobs, with real wages, with real benefits and with some permanence and stability. In Mike Harris's Ontario, bankruptcies increase, the rich get richer, and, yes, at Mike Harris's insistence and to his benefit, the poor get poorer.

The Chair: Thank you very much, Mr Kormos. With that, may I ask —

Interjections.

The Chair: Gentlemen, please come to order. I'd like to ask, is Mr Terryberry here yet, Ms Janes? No? Very well, we will take a 10-minute recess and see how we're doing.

The committee recessed from 0937 to 0952.

NIAGARA SARC NETWORK

The Chair: Ladies and gentlemen, we're going to resume our hearings. I'd like to call the Niagara SARC, Gracia Janes, Mary Potter and Gerald Diffin. Good morning, all. Thank you for being here to present a little early to us.

Ms Gracia Janes: I'm Gracia Janes and I represent the Niagara SARC Network. That's the Social Assistance Reform Committee, and you have our brief. With me is Mary Potter, who will present a short brief from the St Catharines and District Council of Women, in support of the Provincial Council of Women of Ontario brief, which

was handed in in Ottawa, but they did not have a chance to make a presentation. To my left is Gerry Diffin, who will have a few minutes at the end to speak on behalf of the Golden Horseshoe Social Action Committee. So I'll start.

The Niagara SARC Network is a group of social service agencies, churches, organizations and individuals in the region of Niagara who have, since 1989, monitored social welfare conditions as they relate to provincial legislation, policy and programs. The network was originally formed as a result of the work of Judge George Thomson and the SARC commission he chaired around poverty and proposed welfare reform. Our intent was to support and monitor progressive changes of the SARC Transitions report.

These reforms were a comprehensive attempt to move the provision of welfare away from the punitive 17th- and 18th-century workhouse/poorhouse attitudes that had somehow hung over into the 20th century and to remove the barriers to work and societal involvement for those on assistance and their dependants. There was an expectation also that public investment in people, through opportunity planning and job supports, would be paid back many times over. Real jobs and improved health and welfare for individuals, families and those with disabilities would reduce future public costs that result from poverty, joblessness, infant mortality, school failure, hospital use and mental illness.

The overriding philosophy of the SARC commission was best expressed in the Transitions report of 1988: "All people in Ontario are entitled to an equal assurance of life opportunities in a society that is based on fairness, shared responsibility and personal dignity for all. The objective of social assistance therefore must be to ensure that individuals are able to make the transition from dependence to autonomy and from exclusion on the margins to integration within the mainstream of community life." There was an intent as well to ensure an efficient, just and fair welfare system that honoured the provisions of the Canada Assistance Plan in providing "adequate assistance to and in respect of persons in need and the prevention and removal of the causes of poverty."

In particular, these aims reflected long-standing social welfare policies and principles in Canada for which we are known around the world and which most certainly propelled Canada to be a signatory to international covenants such as the human rights declaration, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. For example, the Universal Declaration of Human Rights, signed by Canada, states:

"Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing, medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his or her control."

We draw to the committee's attention Bill 142's extraordinary rejection of these long-held Canadian principles of fairness and justice. We cannot deal in a short presentation with the many flaws, but would seek to highlight the most glaring through questions to the committee and, through it, to the government as follow:

Recent polls strongly suggest that after 50 years of societal concern, the citizens of Ontario will be profoundly unsettled by such an Americanization of attitude as survival of the fittest. Why does the Act revoke the philosophy of need and entitlement, as found in the Canada Assistance Plan and other international treaties, and instead insist on self-reliance through employment?

Why does the bill place the onus of responsibility squarely on the shoulders of those who are in dire straits, with no obligations from the larger community? Bill 142 is cruel, unfair and its enforcement measures are draconian. Examination of the results of the province's snitch line confirm that the perception of widespread cheating on the part of welfare recipients is unfounded and the vast majority of complaints are groundless, often based on misinformation regarding welfare policy or ill feeling on behalf of the complainant.

Where is the human dignity in being perceived to be part of a group of persons likely to cheat, therefore requiring the imposition, through Bill 142, of draconian enforcement measures with fraud control units and snitch lines to threaten one's daily life and that of one's children?

Why does Bill 142 place so much emphasis on police state methods of enforcement? Given the struggle most have already to make ends meet, to find employment and to move out of poverty, why has the act allowed for liens to be put on some homes and why may some recipients be required to pay back welfare moneys? Will these measures not make it far more difficult for people to fight their way out of poverty?

It seems that the objective of the act is to cut people off welfare or reduce their assistance drastically in order to save money and to appear to be acting tough. Why else would the definition or the determination of eligibility for the Ontario disability support program be so restrictive and the decisions around employment supports non-appealable?

In the USA, studies show that mandatory workfare has not led to a substantial increase in people leaving welfare over the long term. One study showed that those who did not participate had a better chance of moving off welfare. Given this, will workfare really lead to secure, safe and reasonably paid jobs or will it perhaps even interfere with pre-existing job searches?

How will recipients without jobs make up the 21.6% cut in welfare, eg, single parents of preschool children? Are single parents and their dependants to continue to suffer from reduced income because of their circumstances?

Privatization has many pitfalls. Andersen Consulting of Chicago had overruns in contract costs in Texas of 559% and is four years behind schedule, had cost overruns in Nebraska and has had a contract terminated for overruns and delays by the federal government. Given these and

other negative results of private sector development and delivery of welfare and workfare, what kind of losses can we expect as a result of the provincial contract with Andersen Consulting? In light of the abysmal failure of the private sector, why does the Ontario Works Act give sweeping powers to contract out welfare delivery and administration?

What kind of accountability for service delivery will there be for the private sector? Will they just cream off the most job-ready workfare participants?

What will the private sector delivery system mean for welfare recipients in terms of human dignity, since profit will be the bottom line? What appeal rights would recipients have?

Workfare is unlikely to make a difference that is measurable. Since the average stay on welfare for single employables is 8.3 months and for FBA clients 3.5 years, it is obvious that there is a large flux on and off welfare at any time. In light of this, how will the success of workfare in moving people off workfare and into jobs be documented?

FBA and GWA already require employable people to search for employment and accept any job they are physically capable of doing. Sole-support parents engage in job searches and other employment activities voluntarily, and the overwhelming majority of recipients would jump at a job opportunity. Why, then, does the legislation focus on client self-sufficiency and on breaking presumed dependencies? Why are those on assistance to be punished for the very poor job market?

In Niagara, and I'm sure elsewhere, hundreds of recipients volunteer yearly in the community and many have been assisted in finding jobs. Why can't the workfare program be voluntary?

To conclude, the Niagara SARC Network sees Bill 142 as a giant step backwards in time, of between 60 and 200 years, to the days when only the "truly deserving" received unconditional social support while those who were "undeserving" worked for a pittance and were blamed for their condition. We caution that such an uncharitable attitude and system will bring untold hardship for poor people in Ontario, who are also being blamed for their condition, the lack of a job in a society driven by mechanization and corporate downsizing.

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The long-term cost to society as a result of increased poverty and homelessness, already exacerbated by the drastic cuts to welfare rates, loss of self-esteem, mental stress and illness will be enormous. Given the American experience, the proposed savings from the new, hard-nosed business approach seem dubious, if not completely illusory.

We challenge the committee to seek answers to our questions from the Minister of Community and Social Services before reporting recommended changes to cabinet or risk sharing the blame for a failed and costly welfare system and social breakdown caused by a growing rift between those who have jobs and can make their way and those who drift further and further into poverty. We ask you to opt instead for a fair, humane and just welfare system, such as that proposed by Transitions, that builds

on the abilities of all its citizens and treats with compassion those who need help.

Ms Mary Potter: Founded in 1918 in St Catharines, the St Catharines and District Council of Women has worked towards the betterment of family and society for close to 80 years. For example, council urged the establishment of a well baby clinic in 1930, in 1939 requested that city council hire a social worker and in 1970 conducted a survey on poverty.

Today the council represents 22 affiliates of varying constituencies — for example, the Beta Sigma Phi Sorority, Ukrainian Social Services and University Women of St Catharines — and continues to serve its community well through advocacy around issues that impact society and the family, such as environment and social problems.

As an affiliate of the international, national and provincial councils of women we are part of an organization that represents millions of citizens worldwide and we are bound by democratically set policy, that is, by resolution circulated widely, at all levels.

It is within this context that we speak today in support of the Provincial Council of Women of Ontario brief presented in Ottawa. This brief uses as its basis Provincial Council of Women of Ontario policy in support of the Transitions report of 1989 and National Council of Women social policy, which asks that government “maintain national standards which would require social assistance granted on the basis of need and include a suitable appeal process.”

The brief speaks of “a system that needs to be improved to provide more adequate support for the very real needs of people in hardship situations,” and of a sense that “Bill 142 has abandoned the basic purpose of meeting need based on fairness, shared responsibility and personal dignity for all.”

We agree with the Provincial Council of Women of Ontario that “the punitive features of this act and the spirit in which it appears to be written, seem to be an excellent recipe for alienating the most impoverished from the general society.”

This act confirms our fears that the government has bought into the many myths surrounding those on social assistance, myths that are not only damaging to citizens on welfare but to our future as a caring, healthy province. Some of the most popular myths are:

Welfare fraud is rampant, when we know it to involve just a very few, far fewer than those who commit white-collar crime or cheat on taxes.

People are lazy and must be forced to work, when we know that thousands have applied for certain jobs, thousands volunteer their time to get needed experience and many people are trapped in low-paying and part-time jobs because these are the only jobs available.

There are large numbers of teens on welfare, particularly teen moms, although these comprise only a fraction of the caseload.

There is a huge core of people on welfare caseloads who remain on for generations, when in fact 40% of those

on assistance are children, and the median stay on welfare for singles is 8.3 months and for families is 3.5 years.

Welfare recipients are dependent on a system that is far too generous, when we know that they have instead real needs, such as hunger, homelessness and mental and physical illness, all of which have been intensified by the recent cuts in benefits.

Welfare recipients are a drag on the upstanding taxpayer, when in fact all welfare recipients pay taxes, ranging from GST and PST to the hidden taxes, such as those implicit in rental payments; and when most have worked before coming on to hard times and thus have previously paid income tax etc.

In philosophy, intent and content, Bill 142 reinforces and builds itself around these myths and seems to return to the cruel days of long ago when the poor were dependent on and beholden to a land owner, merchant lord or factory employer; were often suspect and punished harshly if found to be taking advantage of their situation; and had very few rights of appeal.

In light of all this, we ask ourselves why Bill 142 is so unfair and unremitting in its harsh attitude and action towards social assistance recipients, for example, workfare even for single parents, welfare police, snitch lines, liens on property, welfare as a loan in some cases, fingerprinting and lack of opportunity to appeal perceived unjust decisions that so heavily impact a recipient and dependants. The answer perhaps may be found in a government ideology that we must force people to stand on their own. It also strongly reflects a political need to tap into society's general uncertainty and concern about the future and hence to appear to be tough towards those who are perceived to be a drag on the upstanding taxpayer.

We agree with the Provincial Council of Women of Ontario that “Canadians have not ceased to believe in a caring, compassionate society” but that because we “are in a time of stagnant incomes and high unemployment, at the same time as we worry about dealing with debt and deficit...it has therefore been easy to foster a climate of belief that certain elements of our society are practising widespread abuse of the system, even though the facts do not bear this out.”

Finally, we ask that this committee pay close attention to the Provincial Council of Women of Ontario brief, particularly as it relates to the following: the underlying government belief in what are really just myths, erroneous assumptions; the need for supportive programs such as STEP, ACT, opportunity planning, JobLink; and the apparent void in areas of fairness, shared responsibility and personal dignity for all.

Ms Jones: If we have a few more minutes, Gerry Diffin would like to speak.

The Chair: You have five more minutes.

Mr Gerald Diffin: I'm concerned that Bill 142 is allowed to happen by a government that thinks poor people aren't people, they're something less, they're subhuman. My concern is sexual harassment. It happens to women who are very bright and talented and in high positions in the workplace, and there is no vehicle in this

bill for some vulnerable young lady put in a position where she cannot go back the next day, so her children are going to go hungry because she was harassed the day before. I think it's a bloody shame. There are women in the government caucus who know that women are vulnerable in the workplace every day, so they know they have to be doubly vulnerable in a workfare program. Nothing in that addresses anything like that. I think it's a bloody shame.

The Chair: Thank you very much. We have about a minute per caucus. I would ask you to keep your questions short. We begin with Mr Kormos of the third party.

Mr Kormos: Thank you kindly for compressing so much into such a short period of time. There are a few things we've learned over the course of the last week: that 93% — this was presented to us in Ottawa, I believe — of children on welfare were born in non-welfare families, were born into families that had jobs, that had incomes, that were self-supporting; similarly, that the average stay of a woman on the social assistance system is 18 months and that almost inevitably these are women who, again, prior to being on social assistance were part of households that had incomes, that were working class, middle class, that were buying cars and paying off household finances, what have you, but as often as not were forced on to welfare because of violence or the threat of violence to themselves or to their kids. These are women who have fled the risk of deadly violence to themselves or their kids. We also heard that because of the slashing of welfare rates, those same women have been forced back into households where they risk death for themselves or for their kids. That, in my view, makes this government a co-conspirator in the attacks on those women and those children.

1010

Mr Bart Maves (Niagara Falls): Thank you very much for your presentation. I just wanted to go to one point where you lament a statement, "self-reliance through employment." I believe if we asked Ontarians if they agreed with that statement, that people should seek self-reliance through employment, I would say well over 90% would say they agree with that statement. Yet you seem to lament the idea of self-reliance through employment, and I wonder why.

Ms Janes: There are two answers to that. One is that the jobs aren't there; two is that the people want jobs, they're desperate for job, they're volunteering. They are doing all this voluntarily, so there's nothing wrong. They all want to work and they see value in it. Of course people would say, "There's value in employment if we can get it, and we want it badly."

To take away the kindness and compassion that have been traditional Canadian and Ontario preserves — we are known for this — to move directly away from the Canada assistance plan provision for people, I think Canadians would be most unhappy with that. I believe recent polls show that they a great deal of compassion even in some of the areas like the 905 and sharing resources with the city of Toronto.

I don't think the people of Ontario buy this business. They all know the jobs aren't there. They all know that the former welfare system we had obliged people to work, and people want to work. I don't think they have much truck with this self-made stuff.

Mrs Papatello: Thanks for coming today. I just want your comment on Mike Harris's launch of a million-dollar campaign to advertise workfare, because they just suffered through a complete crash-and-burn exercise. In the Premier's home town of North Bay they could not find presenters who were going to support Bill 142. They have boycotted other communities. They refused to come to Windsor. They refused to go to Thunder Bay even though at that point, before advertising the hearings, 35% of our list was made up of people coming from those regions.

It's been a complete exercise of trying to stifle people who want to speak by making very little time available, going only where they wanted to go. Then, to add insult to injury, they have groups like yours come to us with genuine concerns about the bill and looking for amendments, and we see at the same time the minister and her trekkies rushing around rural and urban Ontario saying, "Mandatory workfare is coming." Come hell or high water, this is happening.

The city of London told us yesterday that under no circumstances will the mandatory nature of workfare be removed. It really begs the question, why have you come here and why does the government insist on spending \$1 million dollars, through that ministry, to advertise this?

Ms Janes: I think they're trying to con the public, and I don't think the public will be conned into thinking it's a hand up and a handout. That's what Transitions was all about: a hand up and a handout. This is about pushing people down and under, and while you're doing it, blaming them for their condition. I don't think people are buying that at all.

As a matter of fact, this workfare is not going very well for the government. That's why they need the campaign. In Niagara there are only six placements at the Fireman's Park where the program was announced.

Mrs Papatello: What do they do there?

Ms Janes: They clean up and paint and do this kind of thing. Some have moved off —

The Chair: I regret that time has expired. Thank you for your brief. I wanted to tell you that the brief of the Provincial Council of Women of Ontario was deposited in Ottawa. We received one copy. We're making copies for members of the committee and they will be circulated on our return to Toronto.

Ms Janes: That's wonderful. Thank you very much.

The Chair: Thank you all very much for being here this morning.

PROJECT SHARE

The Chair: Project SHARE, Roxanne Felice, Tanya Buckaway, Tracy Ross and Anne Smellie. Welcome. I think we're going to need one more chair for our

presenters. We have enough microphones but not quite enough chairs.

Ms Roxanne Felice: Madam Chairperson and members of the committee, also people in the audience, especially the students from the social service class at Niagara College, we thank you for the opportunity of coming here today to speak on Bill 142.

Project SHARE is an agency in Niagara Falls that serves people who live below the poverty line. Our services are an emergency food bank, a food cooperative, a housing help centre, emergency and crisis service. We do public education, advocacy and the Christmas basket program. We serve approximately 2,300 people a month. Since the welfare cuts in 1995, we went up another 30%. Just to tell you what things are really like, I started the job in 1989, and a high month for us was if we served 250 people. We've gone from 1989 and 250 people to 2,300. Things are not good.

We would like to express to you today our concerns regarding Bill 142 and what it would mean for food bank recipients in the Niagara area. We have five recommendations that I'm going to go through, then the presenters who are with me will talk on different sections.

(1) We would like to remove the potential for all welfare to be regarded as a loan. I am told that this is not supposed to be the interpretation. However, the way the legislation reads right now, anyone can be asked to repay their welfare. If the regs are to be defined differently, that is not known yet. It is not fair to have people go back to work only to be plunged into greater debt and poverty.

(2) We would like to allow the 60- to 64-year-olds to stay on family benefits. We have a recipient, Anne Smellie, here who will speak on that.

(3) We would like to have you maintain the right to appeal the decisions at its current level.

(4) Reconsider the section of the bill regarding third-party informal trustees, taking into account the potential for abuse from landlords and unscrupulous people.

(5) Do not restrict the definition of "disability." Take into account the needs of people who are not visibly disabled but who are still unable to work.

On that point, Project SHARE serves approximately 200 people a month who have a mental illness problem, some of whom are on disability, some of whom are not. If this definition stands, they will no longer be able to apply for benefits as they don't fit into the new definition, but they are unable to function in the community. If this occurs, their income will become \$520 per month instead of the disability amount of \$930. This will put a constant strain on our services for food and shelter. We realize that the existing people on family benefits will be grandfathered. We are concerned about the new recipients.

To get on disability right now is extremely difficult, so this is going to be severely difficult. Those who are moderately disabled, those who have HIV/AIDS, those with an addiction problem, those who have what are generally barriers to employment will no longer qualify. We have real concerns about that.

Anne is going to speak on the aged.

Ms Anne Smellie: Good morning. At the present time, Project SHARE services very few consumers who are between the ages of 60 and 64, 4% of our total statistics. If this new legislation, Bill 142, passes as it is, this group of aged will be forced to live on \$410 less a month. Their monthly income will drop from \$930 to \$520. This will mean extreme hardship for this group, which is often stricken with arthritis and ill health. Such legislation will force this group to have to go out to our food bank in order to feed themselves, and in some cases they will go hungry because of their culture and upbringing.

The 60- to 64-year-olds find it literally impossible for find employment and will have great difficulty in performing workfare placements.

If I may speak personally, I am a single, fourth-generation Ontario resident, grade 13 education, a worklife mostly in retail sales. In the late 1980s and early 1990s I was self-employed in a small crafts business but a technopessant when it comes to today's computer and job skill requirements. At age 60 in May I had a minimum-wage job, but I was managing and about to receive a small early Canada pension when I was diagnosed with congestive heart failure, carpal tunnel syndrome and a left-eye cataract, none of which is totally disabling, but combined make my chances of self-sufficient employment very low.

I applied as a first-timer for the basic \$520 social assistance and, depending on ongoing medical tests, as a candidate for future disability benefits. The money and health card I receive covers my rent, medication and basic food, for which I'm very grateful. Each purchase I make is a major decision. I remain eternally optimistic I can rejoin my community as a working member, but the resources to do so within my age group's health factors and income are very limited.

1020

You've heard how the need for Project SHARE services has increased so dramatically over the past few years. As a food co-op member and volunteer for hundreds of hours over the past 18 months, I've seen this first hand as I try to pay back the help I receive — my own form of workfare.

If this legislation is passed without amendments, my vulnerable age group will be severely penalized. Project SHARE will have a huge demand on its already over-extended burden to care for and about us, a burden that its five recommendations surely can help to avoid.

Thank you very much for listening.

Ms Felice: Tanya is going to speak on the homeless.

Ms Tanya Buckaway: I'd like to speak on homelessness, and when I use that term I'm not simply referring to someone who is temporarily out of a place to stay. Rather, I'm referring to somebody who's socially isolated, has absolutely no friends or family to turn to, has no financial resources at all. When they come to see us at Project SHARE, we're the last house on the block. We see about 200 families a month that are in some kind of a housing crisis and about 20 individuals, families, who are completely homeless.

We did a survey at Project SHARE in this summer of 1997 and we asked the people who come in to use the services of Project SHARE how much they spend on their rent. We found that the majority spend over 80% of their income on rent. To give you some context, according to Stats Canada the average Canadian spends 27.9% of their income on rent. This means, when they're spending that much money, that leaves very little for essentials. Even \$5 can send the household into a crisis. That means frivolous things like Kleenex are not on the shopping list.

These families that come to us, and we have to remember there are a lot of events going on right now — Bill 96, redefining the term “disability”; changes to human rights, things like that — as well as events that have happened in the past — the 21.6% cut; deinstitutionalization that has never been adequately addressed in our community — and all these things are intertwining and have an impact on the people who are coming in to see us.

These people, when they're in a housing crisis, are looking at jails, hospitals and shelters as a housing option. That's not a good thing because we have very few shelters in Niagara Falls. That's found on page 4 of your package. There is no shelter for families, for single men, for men who have children, single-parent males. What this does is, when they're released from a hospital, they're back where they started from. They're back on the streets and all they've done is really delayed their life on the streets.

For some people, try as they might, if they can't get a job and they don't meet the rigid requirements of Bill 142, they're not going to have an income. If they don't have an income they can't pay rent, and if they can't pay rent they're going to be on the streets and we're going to see an increase in the homeless people who are living on the streets of our city.

Ms Felice: Tracy is going to talk about workfare and the single parent and special needs children.

Ms Tracy Ross: Workfare and the single parent: In our survey in 1992, we found that 66% of people coming to Project SHARE were on welfare for the first time. There are many children in these families below 12 years of age who need the support of their parents. In our 1997 survey, more two-parent families were coming to Project SHARE for food assistance. In the majority of cases, unemployment and a lack of adequate income are the major reasons for demands for services: 57% surveyed lost their jobs in the 1990s; 55% of the unemployed felt they did not have the adequate skills or training to get a job; 73% of those surveyed had a high school diploma.

The government seems committed to putting these families, especially the children, into a life of poverty and risk of hunger by forcing the parents to have to juggle another piece of eligibility, workfare, in order to get rent and to put food on the tables. Parents will be told to put their children into day care that they cannot afford.

In this area, we'd also like to cover the special needs children. We recommend that the legislation should exempt employment requirements for parents who have special needs children. I am a single parent with a disabled child who does not fall under the children's

disability guidelines. Due to her illness and need for close supervision, I have been collecting mother's allowance for 11 years. At this point in time, I am working two part-time jobs that have very flexible hours. Due to her illness, she must have adult supervision for emergencies at all times. If I am forced to work full-time or inappropriate hours, her quality of life will drop drastically and her personal safety would be nil. Even though I work and collect mother's allowance, I am also forced to rely on Project SHARE to feed my family as I receive no help towards her disability.

Ms Felice: Tanya is going to discuss third-party informal trustees.

Ms Buckaway: The other point we'd like to bring to your attention is this idea of an informal trustee. In our experience it has not proven to be an effective measure to maintain stability in a person's life. I have two stories for you that have happened just recently.

For the purposes of the presentation, the first one will be Jane. She is a mental health consumer in her forties. She has a trustee who is a lovely lady and a very good companion to Jane, but she's not able to help guide her in some of the decisions, especially in her financial decisions. What happens to Jane is that she enters into a crisis, the trustee responds inadequately and Jane ends up being homeless and has to travel to shelters in other cities and even outside the region to find a place to stay so she can remain off the streets.

Another story: For the purposes of the presentation, her name is Janie. She is a mental health consumer in her fifties. She has a public trustee with the guardian's office. By an oversight, her rent was not paid for three months, July, August and September. A few weeks ago we got a call from a very angry hotel owner — hotels are not covered under the Landlord and Tenant Act — and he said, “If my rent isn't paid for three months, then Janie is going to be kicked out by lunchtime.” So we started playing the telephone tag game with the Public Guardian and Trustee's office to try and find out what had happened to this rent money and tried to intervene and negotiate with the hotel owner to extend her stay until we could get to the bottom of it.

Everything was resolved, but in both those cases we were dealing with trustees who had compassion for the person they were dealing with and they were more than willing to deal with us. But if we were looking at a trustee who had any other kind of motivation — say, money or just doing it as a job and not having that compassion — we would be very concerned. As an agency or as any other concerned individual we'd be kept out of the loop because of freedom of information and we would be unable to help that person and they would end up being on the street.

Ms Felice: Last, we'll talk about the loss of an independent appeal process.

Bill 142 abolishes the Social Assistance Review Board and replaces it with the Social Benefits Tribunal. This tribunal has very few powers to improve social assistance delivery. Before the tribunal will hear a case, the appeal must go through an internal process. We could see an increase in the number of people needing help with a

complex appeals process. It could also delay access to welfare benefits, which means people may have no income for a period of time and will have to rely on the food banks and shelters because they are not able to get on to the welfare system.

The tribunal can also refuse to hear an appeal if they feel it's frivolous. It is not permitted to hear appeals related to workfare placements, direct payments to landlords or appointments to trustees without people's consent. All these areas become unappealable. This is hard to imagine in a community where we pride ourselves in being able to appeal anything from a Sears bill to a parking ticket. Yet we in Ontario are going to take that away from people who are living below the poverty line.

The Chair: Thank you very much. We have about a minute per caucus for questioning. We begin with the government.

Mr Klees: Thank you for your presentation, and on behalf of the government I want to commend you for the work you're doing in the community. I have a question for you specifically relating to the issue of trustees.

By the way, we agree there should be accountability. We've heard those representations made and I know members of the committee share that. That is something we will be addressing.

I have no doubt that in the work you do, you come across circumstances where there is an abuse on the part of recipients. It may be, in the case of an individual who is either incapable or as a result perhaps of an alcohol problem or other substance abuse, that sometimes the social assistance payments that are made don't get to the family. I know as an MPP I have cases like that in my constituency office that are very difficult to deal with, and it's really for that reason we're trying to find some way to get that money to the recipient's family. Do you have any advice for us as to how we could achieve that?

Ms Felice: First of all, what discourages me about this government is that the only thing we hear from you is the rhetoric of abuse. I just wish for once we could come to this committee where you have something positive to say about the people who are most vulnerable in our community.

Mr Preston: You're talking about abuse of the children.

The Chair: Mr Preston, please.

Ms Felice: We do have cases where people do not pay their rent when they get money. There are very few. On \$520 a month, if you want a roof over your head, you've got to pay your bills.

1030

Mr Papatello: Thank you so much. The group's work is quite legendary in the region. I'm glad you're here, because it is important to hear from people who work on the front line and deal with individuals who need help in our community.

I would like your opinion about Mike Harris's launch of a \$1-million campaign advertising workfare in the midst of these proceedings. When the bill is not even law yet, they've launched a \$1-million campaign telling every-

one this is coming. Knowing that the program is mandatory, the recipients don't have a choice, why do you need to advertise it? Municipalities are being threatened into participation by virtue of cutting off grant money to municipalities if they don't. Seeing that the projects are out there and they're mandatory, there isn't any purpose to advertise. I want to know how you feel, with the kind of work you do, when you come here legitimately talking about significant issues with this bill and you watch Mike Harris spend \$1 million advertising a program that's mandatory anyway.

Ms Felice: It makes you feel very discouraged and powerless. It also gives you the feeling, although this happens very often, that this government just doesn't care about the people who are suffering.

Mr Kormos: Thank you kindly. Tragically, I know all too well what you folks do on a daily basis. I say "tragically" because you should be out of business. You should be doing other things for a living than having to do what you do. I say that with absolute sincerity. By God, I'd love to see you out of business.

Unfortunately, this whole process commenced with the cutting of welfare rates by 21.6%. The message was, "We'll help the poor escape from the trap of poverty by making them poorer." The poorer, and I'll repeat this as often as I have to, are being put under attack. They're being called upon to subsidize the 40% pay increase that Harris gave MPPs immediately on the heels of cutting welfare rates. They're being called upon to pay for the \$109-million pension plan buyout that made Mike Harris and others millionaires. They're being called upon to pay for this \$900,000 ad campaign and they're being called upon to pay for a 30% tax break, two thirds of which goes to the top 10% of income earners. That is the only crime that's taking place here.

The Chair: I want to thank all of you on behalf of the committee for being here today and sharing your presentation with us.

NIAGARA SOUTH SOCIAL SAFETY NETWORK

The Chair: Next is the Niagara South Social Safety Network, Barbara DeRuiter. Welcome. As you get settled, I notice there are two co-presenters with you. I'd ask you to identify them for the record.

Ms Barbara DeRuiter: Lynne Prine is going to help me to present, and René is here to help with questions. I was expecting Mary Beth Anger to also help with questions. I'm not sure if she's in the room.

The Chair: Could we have the full name of the third person you introduced?

Ms DeRuiter: René Fisher.

We are here to represent the Niagara South Social Safety Network. The social safety network is made up of community representatives from churches and social organizations as well as individual community members. We are committed to working for change for all people. The network is open to people living in Port Colborne,

Wainfleet, Welland, Pelham and the Fort Erie area. We want to lobby to preserve social programs and to help make our communities healthier.

We use a broad definition of health. A healthy community goes far beyond physical health. It needs to include economic, social, spiritual, emotional and intellectual health as well. The network works to improve human dignity, social justice and economic justice and to empower people.

We are also a member of the Ontario Social Safety Network, which is a provincial network of groups and individuals working to support low-income people. The Ontario Social Safety Network has put forth a very creditable set of recommendations. We endorse their recommendations and call on you to implement them.

I'd like to talk for a few minutes about Transitions, which was the report of the Social Assistance Review Committee, put out in 1988. This was an attempt to reform the social assistance system that involved genuine good-quality consultation with the people of Ontario. Real care was taken to ensure that the committee heard from people living on social assistance and living with the effects of government policies. They sought to give people dignity and an adequate income and to enable all people to participate in society.

Transitions was very widely praised and received broad support from churches and community organizations. Sadly, however, little progress was made in implementing its recommendations. This involves tremendous waste of time and money invested in this broadly recognized report. Worse yet, it involves tremendous waste of the potential of social assistance recipients whose lives would have been bettered by its implementation.

Instead, we are faced with another costly attempt at reform. In contrast to Transitions, the spirit of this social reform act is very mean. It relies on intimidation, and has similarities to a police state in the permission it gives for fingerprinting and the lack of privacy people are allowed and lack of respect for human rights. It is as if people on social assistance have no human rights. This would allow them to be treated like criminals, sometimes even worse. We're hearing, for example, that children of families living on social assistance are not able to eat as well as criminals do. Criminals have food provided that meets Canada's food guide. I'm not saying I want that taken away, but our children should be treated at least as well.

We think too that eligibility for social assistance needs to simply be based on need. People are now being forced to go with absolutely no assistance. Also, people who are convicted of offences in relation to social assistance should remain eligible if they are otherwise in need at the time. Families should not be penalized by cutting benefits due to one member's offence. Failing to allow people to have enough income to meet their basic needs pushes them towards mental illness, crime, begging or suicide. The result will be more violence in our society and less safety for all of us and our children. We call on the government to meet its responsibility to set up standards and enforce

them to ensure the wellbeing and human rights of all Canadians.

1040

Another important point we would like to make is that the social assistance system should be based on law, not regulations. The act is much too general and much too vague. It is like asking the people of Ontario to sign a blank cheque or a blank contract regarding how economically disadvantaged people will be treated. The details are not filled in. Numbers and figures of what people are going to get or what they'll be allowed to have to qualify are not filled in.

Being as it's set down in regulation, it can be easily changed compared to a law. There can be changes without public consultation, and this is a real concern. There are too many sweeping powers granted to the minister and cabinet so that changes can be made without public consultation on very important matters, matters that affect people's lives very seriously.

There also needs to be uniformity of delivery. With the regulations and the setup as far as municipalities, there is too much room for inconsistency across the province. One region or municipality may have a more lenient Ontario Works plan, whereas there's openness to another one being very harsh. This is unfair and unjust. Regulations need to be consistent and humane across the province.

It also leaves people at too much vulnerability to workers' discretion and differences in treatment by different workers.

Recipients must also be fully informed of their rights and responsibilities, and responsibility needs to be with the government to do the informing. Right now it is recipients who are responsible. The way the act is set up it is recipients who are responsible, and that is not acceptable.

People also need to have the right of appeal regarding all decisions. Poor people need access to justice just as much as anyone else.

Bill 142 has very cruel effects on 60- to 64-year-olds. Those who do not qualify under the disability act will have to remain on a municipal Ontario Works program, subject to lower rates and workfare requirements. Their income will be greatly reduced. Municipalities cannot handle the burden of trying to retrain these recipients whose employment chances are realistically so low. Even people 10 and 15 years younger are having difficulty finding employment due to age. The 60- to 64-year-olds should be included in the Ontario disability support plan just as they are now included in the family benefits.

There is also grave concern for people with disabilities. Bill 142 blatantly contradicts the Common Sense Revolution, in which there was a promise that disabilities would not be affected. In the future many disabled people will be left to subsist on the much lower rates of the municipal Ontario Works program.

Disabled people need higher incomes because they have higher costs associated with their disabilities. For example, they must pay a \$2 user fee on each prescription. Sometimes they need special diets, for example, diabetics,

and extra transportation expenses are involved as a result of needing to get special medical treatment. For example, it costs \$30 for transportation from Port Colborne to Hamilton for treatment.

Many disabled people are going through extreme anxiety over what this act is going to mean. I've heard of people losing sleep, and just very, very worried. It's cruel that they should need to go through this on top of struggling with their disability.

We support a change in the definition of disabilities in keeping with the submission of the Ontario Social Safety Network and commend Minister Janet Ecker for moving in this direction, though more needs to be done.

I will now give Lynne a chance to speak.

Ms Lynne Prine: I'm not really a speaker, but I came here to try and give you an idea of what some of the people on assistance go through. I'm going to read you one little story here.

A little girl said to me a few weeks ago: "If this is an adult situation, why do we have to pay? Just because our parents are poor, do they have to make it so we stay poor? All I want is a place to live, some food to eat, my family and a good education so I can get a job."

This came from a girl whose mother is on FBA as a result of a car accident and a marriage breakdown. The mother suffers from some disabilities but she's not receiving disability, and she still acquired a college diploma on her own. She is still unable to work full-time and will never be able to work full-time due to her disabilities. She may be able to manage a business from home at some later point, but at present that isn't even possible due to health and money.

She works part-time to try to make up the 22.5% or 22.6% cutback and has to maintain a vehicle to do so. She receives no allowance for her vehicle, when any person owning a vehicle, used or new, or any financial agency will verify that it costs a minimum of \$300 a month to keep a car on the road, between repairs, gas, insurance etc. Sometimes it costs more. This cost is more than the 22.5% cut.

On top of that there are other costs involved in going to work which she must bear. She is also left with past debts and a student loan. Do you think in a marriage breakdown she was not left with debts? How can she pay these? Friends and family aren't allowed to help. That would be income and subject to be deducted from shelter and food allowance.

She has a student loan because she went to college to better herself, knowing that she had to keep up with the times and would be responsible to support her three children. She can't afford to pay it. The family is not allowed to help. They are changing the bankruptcy law so you can't file against student loans. The institution that loaned the money knew that she didn't have an income to begin with.

Many graduates can't get a job after graduation or they only get a job that pays minimum wage even after acquiring a diploma or degree. Also not being considered is, what if they are not capable of full-time employment

and have to abide by social service rules and regulations to provide shelter and food for their children? The whole idea of a loan as income has to be abolished.

Social services only provide minimum shelter and basic food. Even working people are often dependent on other means of support and help to survive. Social service recipients are denied that right. This is just an example of one person on assistance struggling with the system, and there are many, many, many more with varying degrees of problems. These are not low-self-esteem people with no education, with no will power, with no initiative, as social service recipients are so easily stereotyped as being. These are true people in families in need who are being destroyed by a very unfair and unjust system that denies them their basic rights and allows certain individuals to take too much power over their lives, needs and rights. This must stop.

People on the system have their hands tied. A loan is income. You can't borrow to advance. You can't save, for example, through an education savings plan because that's going to be classed as too many assets. You can't have family help. Anything on a regular basis, ie, a family making payments for you, gifts on a regular basis, can have a value put on it and be determined as income and deducted from benefits that were only intended for shelter and food to begin with. Gifts for Christmas, birthdays, meals at parents' every Friday night could be interpreted as on a regular basis. This has already happened in the past. It depends on the worker and the agency involved, not on basic rights or needs. The worker will say according to the act, anything on a regular basis."

If you lose a family member, become disabled, are left alone, are a victim of violence, you need family support. You are forced to manipulate to survive. If you're caught, you are labelled as or actually become a criminal when you were only trying to improve your situation or provide for loved ones. People working making a decent wage still have and/or need family support, emotionally and financially. Why do you think social recipients don't have that right?

1050

Ask children if they want to be raised in a school situation from age six, or even six months, on a continuous basis. It robs children of their childhood, family, family values, fun, learning experiences in home, shopping and independence. With a mother at home, children learn to play on their own and take care of things and themselves while their mother attends to other family needs, such as meals, sewing, fixing, lawns etc. She can still supervise the child.

In contrast, in day care they have constant attention. This constant attention can cause a negative effect over a long period of time in that the children don't know how to play on their own, always require attention, they're not independent, not confident etc. They always need someone there. No one loves your child the way you do. The children become a number at a young age. This is not healthy. The children resent their parents for not being there for them, not participating in activities or the

children not being able to participate in activities because their parents are always working. This applies mostly to sole-support parents.

This will have a ripple effect over time. Society is starting to experience the consequences of the two-income family and the effect on children. Some children end up taking care of siblings if a parent can't afford sitters, they need work or in some cases just want work, prefer a career to a home, and the children suffer. They could be out on the street and the parent not know it. Types of friends or things they do together, everything is exciting when you are young, and the consequences are seldom realized till it is too late.

Children have a right to a family, education and health. The rules this new act is trying to make people live under will deprive them of those very rights. We should be able to sue the government for neglect of child welfare. They're not considering these children or the people, the low-income, the disabled, the elderly. They only seem to care about the numbers they want to reduce off of benefits. We say, "Shame on them."

The public seems to think that social service recipients or low-income poor don't get involved. Part of that is because the poor don't think they can make a change. They fear the attention may result in being cut off for making waves or drawing attention to themselves. But in more cases than the public realizes, they are simply not aware of what is going on. They do not belong to these organizations, many don't know the organizations exist or where to find them, they don't know what resources are available and how to access them. They can't afford newspapers or computers unless they already had one. Some don't even own a TV. They think there are agencies in place to protect their rights and that it is the agency's job to do so. If they don't buy newspapers or see reports going around at local organized groups, they are not aware until it is too late. They don't belong to groups or organizations often because they can't get there. Day care, cost, travel and awareness of existence. This bill is actually a prime example of the lack on the government's and media's part to get the information out to all of the public.

The Chair: Ms Prine, excuse me, I'm not sure how long your presentation is, but you that you have about a minute left.

Ms Prine: Thank you. That's the part about not being informed.

It really seems like a case of the rich get richer and the poor get poorer. People should be entitled to basic things like education, health and basic welfare. This bill seems to be denying them all those rights. It just truly does not seem fair to the needy.

The Chair: I want to thank all of you for your presentation. Twenty minutes seem to go by so quickly. I regret we don't have more time and have no time for questions. But thank you all very much for participating here today.

UNITED DISABLED CONSUMERS

The Chair: Next is the United Disabled Consumers, Geoff Langhorne. Welcome, Mr Langhorne. We're happy to have you with us this morning. Please proceed.

Mr Geoff Langhorne: I'm going to read this speech to you from a display rather than from large-type, double-spaced notes, so give me a minute and we'll get the display up and get going.

I'm going to speak on recovery employment, self-employment, not from the point of view of a technical expert, but I want to acquaint you a little with what it can be like to become and to be disabled.

Your husband or your wife has become disabled. Doctors have no sure cure, and now only one of you works. Disability threatens your credit, home and makes your kids' college just a wish without recovery and work.

Do provincial benefits support your spouse's recovery? Caseloads for FBA disability workers have risen typically from 300 to 500 clients each. What does this mean? One client wrote:

"We had home visits about every six months. Workers were changing constantly. At times we didn't even know they had changed. At one point there was a problem and I phoned and found out we had a new worker. I had to do a lot of arguing and pushing to get some answers and action. Finally when the worker became cooperative, she worked things out for us and she told me she had never seen a file in such a mess and that there were codes used in it that didn't even exist."

Months of this person's recovery were spent fighting an overloaded system, losing time and money for the recipient and province alike, losing initiative and potentially losing hope. Would you wish this for your sick husband or wife?

Someone told me in confidence of an advantage, however, to cognitive disability: It is often hard to remember for very long why you get angry. Yet if your spouse had a head injury and brain damage, memory loss, panic attacks or outbursts of inappropriate behaviour, they might not qualify as disabled under the ODSP. Can you care for them with \$400 or \$500 a month from Ontario Works? If they can't keep work because of their injury, can you care for them without anything from Ontario Works? Would you forget why that made you angry?

If you are young and enrolled in school and under the program you haven't enough to care for your spouse, what does that mean to your income, your contribution in taxes, your hopes and dreams and, when recovered, your spouse's hopes and dreams? Do you have to quit school and work to support your sick husband or wife? How do you repay your student loan when you are forced not to graduate and the province has forbidden the loan's dissolution under bankruptcy? Once you drop out and start work, the government deducts the cost of your earnings from your spouse's benefits. The more successful you are at speeding and improving your recovery, the more the province claws back, reducing your benefit cheque again

and again, every month, defeating the support you hoped to earn.

If you were already working, your spouse probably doesn't qualify for the Ontario drug benefit plan. Disabled individuals under doctors' advice pay for medication for their own recovery, too little, too seldom and still costing too much, from benefits of less than \$8,000 a year. Most of us couldn't pay rent and groceries with that. Municipalities have special needs benefits, but the province has cut their funding too, so you may not get their help.

1100

If you are disabled enough, the Canada pension plan may give you a very limited income. If you are poor enough, the province used to add basic dental and prescription support, and possibly some income, to federal pensions. Under the ODSP, you may be neither disabled enough nor poor enough to qualify. Who is so unworthy that we may deny them a meaningful life by refusing tax-funded disability benefits? Your wife? Your husband?

If your spouse, now disabled, wants to work, they might be one of 32% disabled interested in self-employment. The self-employment policy is consistent with no other provincial or federal business or tax policy and is often irreconcilable with the dynamics of starting a new business. Perhaps your husband or wife can work instead, part-time or at home, where they control their commitments, medication and other support. Your spouse asks your MPP, who refers to local employment programs. Providers are evaluated for the province in a way that reinforces a narrow checklist vision of restoring employment, however. Providers do best who graduate the most, and the most obviously successful, clients. This favours the more able clients for the better statistics they show.

Your spouse would be exceptionally lucky to have providers who have dealt successfully with a disability of their own. If your spouse is not trained by a provider exclusively for the disabled, your spouse will be even luckier to find the provider unbiased. Disabled clients have broader needs, are often slower-paced, mean extra costs and higher overhead and different performance statistics for the provider. Discriminating in training clients with disabilities has never been hard, or bad for business as usual.

Your spouse speaks to a ministry worker. After many surprisingly disturbing personal questions, she explains that if your spouse can work at all, the benefits which have slowed the disintegration of your lives will shortly stop, whether or not they're working. If they are and before they do, the province may allow your spouse to keep no more of their earnings than if they had simply remained on benefits. This may be true even if they courageously made those earnings at great risk to their recovery.

If the province wants to recover your husband's or wife's benefits, you may now be liable for their debt. This is a new strain on your marriage, on top of disability, when you need one another most.

The province is also seeking power almost completely outside the courts to require the disabled and their

dependants to concede future earnings as a condition of receiving disability benefits. Is this an incentive to recover and work?

Your spouse had hoped there would be time — if self-employed, perhaps a year or more — to restore income to at least replace the benefits, and for that income to become foreseeably secure. But this time, if the gamble of working doesn't pay out in a few months, you probably can't get the benefits back.

I've been told that another advantage of cognitive disabilities is that you can often enjoy the same surprises several times, having forgotten they surprised you the first time. You can be surprised to be wished happy birthday several times on your birthday, even open presents twice. If your spouse recovers but doesn't immediately succeed at work, a 21.6% drop in benefits will surprise them. The now historic 21.6% cut from welfare in reality is a cliff to walk for those who recover but are unsuccessful returning to work.

Your credit is already at its limit since your loss of income. As calls from creditors pile up, you begin to feel no matter how much your government wants your spouse off the benefits payroll, it does not want your husband or wife to work.

If you have financial difficulty, new trusteeship and direct payment powers of the province may disburse your spouse's benefits without your input or approval and without any right of appeal. They may make similar support deduction orders for undefined government debts, which could include federal and provincial debts, income and property taxes, benefit overpayments and even student loans. This legislation turns the whole province into a Dickensian workhouse for the disabled and the poor. Becoming disabled, which almost by definition makes you poor, now puts you at risk of lifetime impoverishment in a perpetual underclass.

A 1994 study for the Secretary of State identifies 44% of those seeking to go back to work as discouraged by the threat of losing their benefits. Even risking their benefits may be denied the disabled. According to funding projections, there may not be enough money to help all who want to work. This failure will be a great cost not only to those whose lives have already been changed by disability, but to all of us, who must walk the streets with them.

A survey published this month for the Ontario Social Development Council remarks the decline in quality of life in Ontario, marked by bankruptcies, unemployment, rise in social assistance, social housing waiting lists, elderly waiting for long-term care and children in care of children's aid. Can we share with so many more disfranchised our lives and our society, disintegrating under unbearable burdens, without facing vast, destructive, irreversible changes in the life we now enjoy?

The administration of disability benefits is about to change. The effect of that administration upon the disabled is not. Some 17% of Ontarians suffer disability. They do not prefer benefits. Their government does not support their return to work. The needs of people with disabilities

are not being met with the Ontario disability support program.

The act's two key commitments are described by the minister, Janet Ecker: "To reform Ontario's welfare system and to create an income support program to meet the unique needs of people with disabilities." We cannot address these by restricting access to or by funding within the limits of the current benefits system.

It is dishonest to say disability benefits have not been cut. Affordable housing has been cut, and with it the rent assistance available to those with disabilities. Transfer payment cuts to cities have cut transit for the disabled and cut municipal funds for special needs. Workers' Compensation Board claim limits and outright eliminations and planned hospital closings deny the disabled care. Benefits may not have been numerically reduced, but the real cost of being disabled has been driven up manifold, so the value of benefits has also been cut manifold.

The disabled I have spoken with to prepare this report have repeatedly declined to divide disability from poverty. Neither have they divided poverty from exclusion — exclusion from education, from employment, from a hopeful future in our society. Can we divide up these costs of disability with as dull a knife as the Ontario disability support program?

I confess that everyone disabled that I spoke to was also working and felt themselves successful in coping with their disability. The costs I have described to you are really just the costs of "disability lite." It must be unimaginably worse for those who have failed to succeed in their own eyes.

Perhaps we feel that if we isolate our disabled, we can put them out of sight and out of mind. It is pleasanter for us to remember them if they are absent from our communities, from the institutions we make use of, and our lives.

We have yet to address clearly whether we wish to provide them with compensation for becoming disabled, like a kind of insurance, or to guarantee them a living stipend to restore their hope and a meaningful life. Instead, benefits instituted as a fresh start have become an envious limit we impose upon the recovery of the disabled, a dead end vigorously enforced. We pretend they have enough — enough money, enough privacy, enough dignity — while we systematically strip them of all these achievements that disability has not already robbed them of.

The Ontario disability support program is doomed under terrific and unchanging disincentives to recovery and to returning to work. Restrictions in this legislation will not help people with disabilities get better, or help them eventually pay their own way. You can't get there from here. You must begin again. The first job of the disabled is to recover. It is a full-time job.

1110

I am grateful for the opportunity to have spoken to you here today on behalf of those not yet well enough, even if they wished, to come, but I am troubled by their need to have a spokesman in their defence. Their job should be

just to get better. So it falls to you to ask: "Have we truly lowered the costs of disability to the disabled, to our community and to ourselves? What are the barriers to recovery, employment and self-employment in Ontario? How could a real revolution and intelligent, new, from-the-ground-up policy help these gutsy survivors towards whole lives and families in regaining the work many have already given Ontario for half a lifetime or more?"

I am still in recovery from my disability, although you may not notice it here today. When I first began my recovery I wondered how long it would be before I missed being able to spend all day in bed, often having to spend it there. When I couldn't remember whether I had turned the stove on or off, no one asked me to do a lot of cooking. I admit I have been granted a special kind of privilege with unrestricted access to daytime TV.

I regret that many of the institutions that helped me since I began my ongoing recovery are threatened as I am here today. Quite a few other disabled people have informed my report in order to bring before you their experience of disability and to ask you to re-evaluate the Ontario disability support program and its relationship to Ontario Works before it is reintroduced in the House. We hope you will begin its re-evaluation here today.

The Chair: Thank you very much, Mr Langhorne. We have one minute per caucus. We begin with the official opposition.

Mrs Papatello: Thanks for coming to speak with us today. The opposition shares many of your concerns with the bill. I want to ask all the presenters I can if you feel it has been a worthwhile endeavour in light of the \$900,000 campaign that Mike Harris has launched to propagandize workfare and announce as a mandatory program for both the recipients of welfare and municipalities to participate in workfare. It really has made the entire hearing process quite a sham and at a significant expense to the Legislature to boot. I'm just wondering if you as a presenter have any sense from that behaviour if this has been a worthwhile endeavour for you, and why?

Mr Langhorne: It seems to me that Mike Harris is preaching to his constituents. While I recognize that political tradition, it doesn't seem to me to change any opinions or points of view on either side.

Mr Kormos: In a press release yesterday, Mrs Ecker acknowledged that one of the front-and-centre goals of Bill 142 was to tighten eligibility, restrict eligibility, reduce the number of people who have access to any of these programs. The standard or the threshold for being disabled under this bill is an exceptionally high one. I have had fears expressed to me by members of the community of persons with disabilities that some disabled people might feel compelled to aggravate or enhance their disability so as to pass that threshold to get into that higher tier of income support because there's a 22-percentile difference. Are those realistic fears?

Mr Langhorne: I'm familiar with the thought that under the present disability plan it is expensive to get better. It is expensive getting there and it is expensive at each step along the way, as your achievements are clawed

back and before you are ready to support yourself. Under restricted eligibility, it's more expensive and it's more risky and it's more frightening, and I think even for intelligent people who are disabled and highly trained, and skilled people who are disabled, this is a very real fear.

Mr Maves: Thank you for your presentation, Mr Langhorne. There are, I think, many positive things the government has announced around the Ontario disability support program that I'm not hearing anything about. I want to run a few by you and see if you think they are positive.

Persons on the Ontario disability support program as well as those receiving handicapped children's benefits in Ontario Works will continue to receive the benefits of the Ministry of Health assistive devices program. The 25% copayment will be eliminated. I would assume you think that's positive, eliminating that copayment.

Mr Langhorne: I haven't looked deeply at it, to be honest with you. My job here today is not to defend or attack the government but to defend disabled constituents, but from what you say, it sounds positive.

Mr Maves: Okay. Another one is that people with disabilities will now be able to retain compensation awards of up to \$100,000; for example, awards due to injuries or being a victim of abuse or crime. The limit under the former FBA rules was \$25,000. Again, I think that's a very positive development.

Mr Langhorne: Given that the rules for reclaiming disability benefits have been extended, I think we're seeing potentially a loser again. A lot of people will make a claim and then find that the government takes it for the benefits they've received.

The Chair: Mr Langhorne, I want to thank you on behalf of the committee for taking the time to be here and presenting your views.

Mr Kormos: That's okay. Mr Maves ran out of positive comments.

Mr Maves: Actually, I had many more.

The Chair: Thank you very much. We did only have one minute, as I indicated.

CANADIAN MENTAL HEALTH ASSOCIATION ONTARIO DIVISION

The Chair: Canadian Mental Health Association, Ontario Division, Lisa McDonald and John Kelly, please. Welcome to our committee. We're happy to have you here this morning. You have 20 minutes for your presentation. If you should not exhaust the time, I'm sure the committee members will fill it by asking questions.

Mr John Kelly: Thank you very much, Madam Chair. It's a pleasure to be here. My name is John Kelly. I'm the past president of the Ontario division of the Canadian Mental Health Association. Lisa McDonald is on our staff at the Ontario division office.

The Canadian Mental Health Association, Ontario Division, is an incorporated, registered, non-profit charitable

organization chartered in 1952. We have about 4,000 volunteers who are active in direct, board and committee service in a network of 36 branches which are located in communities across Ontario. Our services and programs are funded through government grants, local United Ways and supplementary fundraising activities.

CMHA, Ontario Division, has been and continues to be very involved in social assistance issues. This is evidenced by the policy work that has been undertaken by our organization over the years as well as by our involvement with other groups and other organizations working in this area. In 1986 CMHA, Ontario Division, was represented on the Social Assistance Review Committee established by the Minister of Community and Social Services. This report, *Transitions*, was released in 1988.

In 1993 the Ministry of Community and Social Services published a framework for reforming Ontario's social assistance system entitled *Turning Point: New Support Programs for People with Low Incomes*. In our response to this report, we had the following recommendations:

That social assistance legislation be guided by the principles of accessibility on an equal basis for all;

That the current General Welfare Assistance Act and Family Benefits Act be combined into a simple legislated program to facilitate access of recipients, ease of administration and cost-effectiveness;

That the social assistance safety net ensure that people who are unable to work because of a disability are guaranteed an income above the poverty line and never penalized because of their disability;

That a person's ability to receive long-term benefits not be jeopardized by obtaining full- or part-time employment; and

That the definitions of "disability" and "employability" used in social assistance legislation be stigma-free, internally consistent and consistent with other legislation and across provincial ministries, flexible, and based on limitations rather than duration.

Many persons who experience mental illness rely on some form of income maintenance for support. Income is recognized as one of the foundations of the community resource base conceptualized by our national office in the document, *New Framework for Support*. According to the framework, the foundations of citizenship are comprised of work, income, housing and education, and income is considered a fundamental determinant of health.

Research supports the central role that an adequate income can play in maintaining mental health. While mental illness is not directly caused by being poor, poverty exacerbates mental illness. In addition, there is a far greater chance that persons with mental health problems will also be poor. It is a fact that having a disability predicts poverty better than almost any other population characteristic.

The current mental health reform initiative of the Ministry of Health recognizes that for many persons with mental health problems poverty becomes a way of life. Without appropriate income and community support services, people with serious mental health problems are

at risk of becoming trapped in the revolving-door syndrome wherein, upon release from hospital, lack of money forces them into substandard housing where their mental health deteriorates and they return to the hospital. The maintenance of adequate and appropriate income support for persons with mental health problems is crucial to their overall health and wellbeing.

Bill 142 proposes sweeping changes to the existing social assistance system which, if passed, will have profound effects on persons with mental health problems who are unable to work due to the symptoms associated with their illness or because they face barriers to securing and maintaining employment.

Now I'm going to pass it over to Lisa, who will make specific comments on this specific proposal.

1120

Ms Lisa McDonald: I'm going to speak first of all about the Ontario Disability Support Program Act within Bill 142. The single most important issue, from the point of view of the our organization, is whether the definition contained within the act is sufficiently broad and flexible to recognize the unique needs and circumstances faced by persons with mental health problems. The CMHA, Ontario Division, believes that the definition of "disability" contained within the act will not ensure that all those with mental health problems in need of income support will receive it. Our concerns include the following:

(1) The use of the qualifier "substantial" in describing physical and mental impairment is not sufficiently clear. The term is open to interpretation, including a very restrictive interpretation.

(2) The significance of requiring that there be a direct effect of the person's impairment on the ability to function in the community and function in a workplace is also not clear. Would the fact that an individual's mental health problem has prevented them from working for periods of time, or from benefiting from educational opportunities, be considered a "direct" effect on the ability to function in a workplace because of the barriers to employment they will no doubt face? If not, the definition does not adequately acknowledge the reality faced by those with significant mental health problems.

(3) Our third concern is that individuals will be required to demonstrate a "substantial" restriction in three areas: personal care, functioning in the community and functioning in the workplace. We believe that an inability to function in the workplace at any point in time due to a disability should be sufficient evidence that a person is unable to live without income assistance. Under the proposed system, such individuals with disabilities would be forced to seek a much reduced level of assistance under Ontario Works and then also be subject to mandatory work requirements which they will be unable to fulfil.

(4) The definition does not recognize that persons with serious mental health problems may not be substantially restricted in attending to personal care or may only be so restricted for very short periods of time. Nevertheless, they may be very restricted in terms of their functioning in

the community and in the workplace for much longer periods of time, such that they are unable to earn a living. The CMHA, Ontario Division, is very concerned that for these people a lack of income will serve to exacerbate illness and unnecessarily lengthen their recovery time.

(5) The fact that individuals with substance abuse problems are deemed not disabled and therefore ineligible for income assistance under ODSPA is also unacceptable. Such a distinction can only be seen as a judgement that assigns blame to some individuals for their illness but not others. As with persons with mental health problems who are considered "not disabled enough," how will persons with substance abuse problems be able to receive the treatment they require and maximize their potential for recovery without an adequate level of income support?

(6) Exclusion of persons with substance abuse problems also does not recognize that many persons experience mental health and substance abuse problems concurrently. A recent study of individuals showed that almost one third of mentally ill individuals in the sample also reported a substance abuse problem, and up to 50% of those with substance abuse problems other than alcohol had a psychiatric diagnosis.

(7) It is not clear how a determination of disability will be made for individuals with both a mental illness and a substance use problem utilizing the proposed definition. Persons with concurrent disorders who are not receiving treatment for mental illness or who have never received a diagnosis of mental illness could be excluded because of their substance abuse problem.

The second area I'd like to highlight concerns the provisions for liens and reimbursements within the ODSPA. The act proposes expanded powers requiring that recipients or dependants agree to liens against property, the reimbursement of income support or the assignment of expected income as conditions of eligibility for income support. Failure to comply with any of these conditions can result in a person being denied support, being declared ineligible for a specified period of time, or having their support reduced or suspended.

It is possible that some persons may be too frightened by these requirements to apply for income support in the first place. As well, persons who have had a lien imposed on their property may not be able to move if they choose because of the restrictions against assuming mortgages on properties which have a lien against them. Also, if income assistance is considered to be a loan, people who are able to recover from their disability sufficiently to earn an income may never be able to recover financially from the impact of their disability because of repayment requirements. This makes the possibility of escaping from the poverty often associated with having a disability even more unlikely.

Another area of concern for the CMHA, Ontario Division, with respect to this act is the power in the act to appoint a person to act for the recipient if there is no guardian of property or trustee for the recipient and he or she is satisfied that the recipient is likely to use the income support provided in a way that is not for their own or their

dependants' benefit, or if the recipient is incapacitated or incapable of handling his or her affairs.

Our organization is concerned about the potential for abuse of this section of the act since it could allow for the removal of individuals' control over their own finances in a variety of circumstances which are not specified in the act. It is unclear, for example, how it could be decided that an individual is likely to use his or her income inappropriately and what guidelines will be in place to ensure a fair and equitable process for this determination. As well, no mention is made of a requirement to adhere to the procedures and safeguards included in the Substitute Decisions Act in determining that an individual is incapable of handling his or her own affairs.

Related to this concern about control over finances is the fact that a portion of income could be paid directly to a third party on behalf of a recipient for costs related to basic needs such as shelter. The circumstances under which this would occur are not specified. However, it is important to recognize that there may be very good reasons why payment is being withheld from a third party; for example, a landlord who hasn't done necessary repairs on a building. Also, since the amount payable is by a member of the "benefit unit," presumably a person receiving social assistance could be held responsible for their spouse's or child's rent and/or other basic needs expenses. We believe that a decision to have a third party paid directly should not be made without the consent of the social assistance recipient.

1130

The area of appeals provisions within the act is also a focus of concern for our organization. Very few details about the new Social Benefits Tribunal are available, making it difficult to comment on many important aspects of the proposed tribunal. What is known is that only negative decisions of a mandated internal review process will be heard. Of concern is that without safeguards in place, such an internal review process may be used to unnecessarily delay cases in reaching the tribunal. This is of critical importance since there does not appear to be any provision for interim assistance during the internal review process. This may dissuade many from appealing to the tribunal, especially if they believe the same decision-making process will be used by the tribunal as was used during the internal review process.

Also, it is not clear if individuals will have access to legal or advocacy assistance during the review process. Decisions to hear appeals at all are at the complete discretion of the tribunal, and there is no assurance that these decisions will be consistent or fair.

The fact that there is an extensive list of decisions that are not appealable under the act is also of great concern. Decisions that are not appealable include employment supports, since the appeals that currently exist under the Vocational Rehabilitation Services Act will be eliminated; discretionary income support; income support in exceptional circumstances; direct payments to a third party; appointment of a person to act on behalf of the recipient; a change in assistance caused by an amendment to the

ODSPA or the regulations made under the act; emergency assistance; or any other decision so prescribed in the regulations.

The part of the act which deals with the provision of employment supports is also very important for persons with mental health problems. While we are encouraged by the comparatively expanded criteria for eligibility used in this section, we believe a number of cautions are still warranted. For example, a service coordinator for a specific geographic region will determine if any financial contribution is to be made by the applicant towards the cost of employment supports. Presumably, the criteria for determining financial contribution on the part of the recipient will be prescribed in the regulations. Requiring recipients to make a financial contribution to employment supports could exclude some people from participating.

Employment supports may also be suspended or cancelled if the person is not making satisfactory progress towards competitive employment in accordance with the agreement made with the service coordinator. The role of the recipient in determining what constitutes "satisfactory progress" is not specified. Again, there is the possibility of excluding many persons with disabilities from receiving employment supports because they fail to meet expectations of success. It is also stipulated that employment supports may be suspended or cancelled if the person fails to use them. We believe there should be some attempt to determine why a person does not use the employment supports provided, because there may be a very good reason for their failure to use them and that could be addressed without cancelling supports altogether.

Without knowing the criteria to be used in determining "satisfactory progress," there is no way of determining whether they are realistic, given the reality that many persons with disabilities face tremendous barriers to employment and may require intensive supports over a long period of time. Those most in need may not have an opportunity to benefit from employment supports if only those most likely to succeed are chosen to receive the benefit or allowed to continue in the program.

Another potential problem with the program is the stipulation that a person is eligible for employment supports only if they are "not a member of a class of persons prescribed to be ineligible for" the supports. The purpose of including this clause is unknown, but it could be used inappropriately to decide that certain groups of people are not eligible to receive employment supports. Such a restriction would require only that a regulation be passed to that effect.

I want to make a few comments about the Ontario Works Act. While the ODSPA is intended to provide social assistance to persons with disabilities, we believe that many persons with mental health problems will fail to qualify for income support under that program and be forced to seek assistance under the Ontario Works Act. Many of the concerns we've already raised with respect to the Ontario disability support program apply here as well, and I'm not going to detail those, but they relate to liens and reimbursements, appointment of a third party, appeals,

direct payment to third parties, and so on. But also, recipients of social assistance under the Ontario Works Act may be required to satisfy community participation requirements, participate in employment measures, accept and undertake basic education and job-specific skills training and accept and maintain employment.

It is not clear how persons with mental health problems, "not disabled enough" to receive social assistance under the ODSPA but unable to work due to their illness, will be able to access income support to meet their basic needs. The CMHA, Ontario Division, is concerned that these individuals will fall through the cracks and that their mental health problems will possibly worsen to the point of requiring hospitalization.

The mandatory nature of obligations under the OWA, the fact that there is no requirement that these be reasonable or suitable, and the fact that there is no requirement that employers comply with the Ontario Human Rights Code or other protective employment legislation are also problematic aspects of the act from the point of view of our organization.

Mr Kelly: In conclusion, it is difficult to imagine a piece of legislation that could have more profound effects on persons with mental health problems than Bill 142. At stake is the very health and wellbeing of some of the most vulnerable residents of Ontario and their right to live with dignity in the community. The CMHA, Ontario Division, urges the government to consider the concerns raised in this brief and to reconsider those aspects of Bill 142 that threaten the social safety net that our organization believes must be maintained for persons with mental health problems. Thank you.

The Chair: Thank you very much, Mr Kelly and Ms McDonald, for being here. Regrettably, there is no time for questions, but we thank you for your brief.

Mr Kelly: We certainly appreciate being here.

The Chair: Ladies and gentlemen, we don't have a confirmation for 11:40, but Community Legal Services of Niagara South, which is scheduled for 1:30, would be willing to present. With the consensus of the committee, we could ask them to come forward now.

Ms Mary Beth Anger-Sheffield: Excuse me, that's not what I said. I said the person presenting with me had just left.

The Chair: My apologies. I misunderstood. In that case, we are adjourned until 1:30.

The committee recessed from 1137 to 1330.

COMMUNITY LEGAL SERVICES OF NIAGARA SOUTH

The Chair: Ladies and gentlemen, we're going to get started right away with the Community Legal Services of Niagara South, Mary Beth Anger-Sheffield. I note there are two of you presenting. Perhaps you'll introduce yourselves for the record and you then have 20 minutes for your presentation.

Ms Lynne Prine: I'm Lynne Prine. I spoke to you this morning with the Niagara South Social Safety Network.

The Chair: Welcome again.

Ms Mary Beth Anger-Sheffield: Lynne is a client of Community Legal Services and she is going to talk about her personal experience in regard to some of the matters I'm presenting in my brief. We hope there may be some time for questions.

I'm a community legal worker and I work at Community Legal Services. The primary part of my job is addressing the needs of low-income people on benefits, all the income maintenance issues.

My question to the standing committee is, are we changing who we are as Canadians? I am concerned about who we are and where we are going and what does it really mean to our country, because it affects every one of us.

The poor are not the traditional poor. They are not people who have ever been on assistance generation after generation. But there for the grace of God go I. This could happen to any one of you or to me. What you're putting in place — legislation doesn't change quickly, and this legislation is going to be long-lasting and live for a long time. Think about when the major changes were made to welfare legislation in the past. That's a long time ago, over 50 years. There have been small amendments made. We're changing who we are, we're changing our thinking and I don't approve of exactly how we're changing this.

I saw many, many people from churches, from the community, who came together, who made submissions to the government in the role of the standing committee with Transitions. I'm not sure why those recommendations and why that process aren't being looked at, to use, to empower. Many people came together and told the government what they wanted, and it's being disregarded.

Are we changing who we are as Canadians? The federal government has repealed the Canada assistance plan and is allowing the provinces to make the rules. Now there is unequal delivery of social assistance across Canada. The government is now looking to the citizens of this province to work for their welfare on a mandatory basis. The Ontario government does not allow the recipient time to recover from whatever problems they face, so they can find solutions and employment on their own, without the mandatory process being implemented. Mandatory labour, instead of encouragement to find one's own way to a new future, is a negative start.

A more balanced approach would be time limits to allow a recipient time to volunteer and move into the Ontario Works process, and time to get on with life without a forced process would be reasonable to me. I think it's important how we treat recipients and how we encourage them. These recipients are no different than you and I. Think about yourselves in your roles, when it's a negative process and when it's a positive, and how encouragement helps move you on to a better and more positive process. It makes you a better you. People who are recipients are no different.

The appeal process: In a democratic society the right of appeal should exist. This means the right to an appeal process in a timely and fair and equal manner for all

Ontarians. An internal secret process which is designed in SARA really doesn't provide any limits. It doesn't tell the recipient when they can expect that they can move on to the next step. It doesn't tell them how long they're going to be in that process. Is it going to be two or three weeks? Is it going to be two or three months? It's unfair to leave a person suspended, hanging without a time limit and a timely process that they can expect to be met so they know when they are going on to the next step.

Also, if in fact we continue the appeal process as it stands with the Social Assistance Review Board, if we continue a process where a person has a right of appeal from the very beginning, then there's that court date. That tribunal date is coming, it's pushing the process and it means that the welfare Ontario Works people have to be moving on, and so would the representatives. So there's a limit, there's an ending, and everyone can expect that if it's not resolved before that appeal date, then it will go on to a next level. That's a fair process. That's what happens in other court systems in a democratic society. I'm not sure why we feel this system isn't worthy of that same type of fairness and democracy.

When a person is denied the right of appeal, that's a denial of natural justice. The external appeal starting at the same time is the only solution I can see that provides fairness.

Interim assistance is extremely important for a meaningful appeal system. If you can't have some kind of base income while you're waiting — and I can't see that that's proposed, that that's going to be a process in place that we can depend on. It needs to be legislated. It needs to be something that people can count on at the very base level of existence.

A person in the appeal system and in the process is treated like they're guilty. It seems to me that in most places in society and democracy, you're innocent until you're proven guilty. People on public assistance are treated as if they're guilty until they prove their innocence. That's an unfair process. This could happen to you.

The tribunal must retain the ability to interpret law and not be bound by policy directives of the minister, who may be one of the parties in the dispute. The minister could be part of the dispute, and that's a conflict of interest in any other case in our courts in our land. I'm not sure why we would change that or how we would think that would be a suitable process for the minister when he may be a party.

The tribunal needs a plan for people who are illiterate, disabled or do not speak English or French. The appeal process should be open to individuals who are no longer on benefits, as in many cases overpayments arise at the termination and close of benefits. The tribunal needs to have the authority and the ability to deal with administrative errors.

In the process of going off benefits, clients sometimes try to work to stay on benefits. They're ready to go off and they have to fight to try and work to keep their incomes low to not move off because they have this dispute with a family benefits officer, a lot of single moms do. They have overpayments that are inappropriate because they're not

correct. The single mom is trying to get ahead with her life in the future and here's she's got this great big debt that she's facing and she doesn't even have the right to correct it. That's not fair in a democratic society.

Recipients ought not to be responsible for errors made, given that they had no intent to hide or benefit from the errors. At times the errors have been totally a mistake by a case worker. The poor person suffers from the error of the system.

Repayment of an overpayment based on the creation of an automatic judgement, without a hearing or a court process, should not be allowed. Only after the matter has been taken to the tribunal for a fair determination, similar to a court, should further action be taken. At this point, enforcement of a judgement would be reasonable as we need to maintain a democratic process for all citizens of Ontario.

We believe that to ask a person to pay for an administrative error that they did not create, when they've had no intent to treat anybody poorly, they haven't done anything in secret, they haven't hidden anything — some other person makes a mistake and you have to pay for it? How would you feel if that happened in your home? Would you be angry? Would you be upset? Would you fight back? I believe that most of you would. Why would you think that a recipient should be dealt with differently? I don't understand how persons making these decisions would think on that basis and want to treat other classes of people in our province in a less than fair process.

Third-party collection of debts from public assistance: Deducting for other debts reduces this basic form of subsistence. These funds are given to pay the rent and to eat and to meet basic needs to sustain life during a period of struggle. To recover student loans, traffic violations, parking tickets, business taxes, personal taxes or other debts to the government is taking advantage of the family or individual who is already at the lowest ebb in the struggle to support themselves. It may be feasible in a society where there is high employment, but not in the current economy. This is poor-bashing.

Many of the families now on public assistance have never been poor before. Are we punishing these recipients for not having found employment when we have high unemployment, with very little hope of finding a job? Alternatively, we suggest such a third-party debt be adjudicated by the tribunal to ensure the issues have a proper determination.

1340

Assets, income, loans, liens and reimbursement agreements: We encourage families to support one another in difficult times, but the public assistance system discourages giving that support, love and care while the family is in struggle. Many of these small values given to a family are considered as support or income that may result in a reduction.

A lot of times it's also the fear, "If I take that from you, what's going to happen to me?" There's an unequal thinking on the parts of case workers. Some case workers think about these things and they think, "Gee, I really

don't want to include that." There's a lot of discretion. One person may be able to have something and keep it because the case worker sees that's reasonable and fair, and another case worker will say, "That's income and I have to deduct it."

I had a mom come to my office who told me about speaking to a case worker who looked at her going to her mother's for dinner every Friday and was adjudicating the value of that dinner for her and her children. The recipient, being proud of her mother and the care that they had in this family of one another, talked about how the case worker asked about the meal, what kind of a meal, turkey, roast beef, did all of that and then said, "Your mother must spend about \$50 to feed you every Friday." It's an unfair process to say to this person: "You can't go to your mother's for dinner. Because your mother feeds you well, we might be looking at you for an overpayment." That's not fair. How does that encourage the support of families to care for one another? I think it's inappropriate.

Many of these small values given to a family are considered as support or income that may result in a reduction in benefits. Grandparents and parents want to support the family, but if it is deducted as income, then most often the item is not given and the family suffers needlessly. Recipients are fearful to admit they go to dinner once a week at their parents' home, as this has been seen as a value that could be deducted or considered as support. The recipient has faced reductions when a parent brings a bag of groceries to provide some extras. This gift has been deemed as income. The church who gives a food basket or going to the food bank is exempt, but is this not the same idea? Recipients need the support and encouragement in tough times. Family and friends need each other to endure the struggle. This assistance period needs to be an empowering process and not a time of greater stress, the courage, preventing the feeling to strive ahead, it's not a time to beat people down. The empowerment is needed to move the family through to a positive conclusion. It's not a process that you should be feeling that you're stuck in. It should be a process that you feel you're moving through and out of in a positive type of way.

The statistical information provided to the public needs to be divided, so that the overpayment issues and the fraud issues are separate. Overpayment information is given with fraud statistics and it insinuates criminal intent. A lot of the moms who are working, who are trying to get off the system actually earn more money. The overpayments are created and the overpayments are growing and they're trying to get near the end of the system to get off the system. So these are the same overpayments they're left with that they can't appeal when there are errors in those overpayments, but they're also the same overpayments that are counted in as part of the fraud statistics, and this is about moms who are working to get off the system. You're lumping all the overpayment statistics with the fraud statistics, making it look like there are so many people being fraudulent when that's not the case. You're actually beating down the women who are trying to

struggle and get ahead in this province, single moms trying to do their best.

It's an unfair delivery of information to the public as well. This mixing of issues gives the wrong picture. The resulting assumption is that any person on public assistance is a cheater.

The rules need to be unified, written and provide proper information about assets, overpayment, income and fraud, delivered to the recipient upon application. This process also needs to be discussed and talked about verbally to ensure literacy and understanding of what is being said, in addition to the written information given. Sometimes it's given. Sometimes you ask recipients to sign. They sign. They don't tell you they can't read. They don't tell you, "I don't understand that big word." A lot of times when I go to hearings at the Social Assistance Review Board, people are asked questions and they don't understand the word and they'll answer yes or no; and after they come out of the hearing, they say, "Well, I didn't really know that word, but I didn't want to look stupid."

Also, people don't want to look stupid when they're applying for public assistance. There are words yet in our society that I don't know and I don't understand. I'm sure there are words that you don't know and you don't understand. So don't discount or think that people are stupid, but they have a right to understand what's being said. They have a right to that.

The asset levels need to allow a reasonable way of life for families. Under the proposed legislation, the welfare assistance levels are thousands of dollars lower and many families moving from the family benefits system into the new system will be over the asset levels and be penalized. Reasonableness would be to give a greater amount of assets to all levels, levels currently set out in the Family Benefits Act as opposed to using the levels in the welfare act.

We should be empowering people. We shouldn't be stripping them of everything they have while they go through this process and a struggle to get on with their life. They shouldn't be stripped bare. Think about it in your house, in your life. Would you like to be stripped bare while you're in this struggle?

We do not support the idea that public assistance is a loan that must be repaid or that a lien could be put on a property after being on benefits for a year or more. This will only make the poor even poorer. This will make public assistance always be a punishment. The result will be that families or others will hold and provide the assets for many recipients in the struggle to self-sufficiency. Families need to move through the public assistance process free of fear of punishment for the problem. They need their energy to move forward into new situations and employment. Transitions gave good recommendations.

Definition of disability: We support the changes to the definition of "disabled," in substituting the word "or" for "and," so that people will only have to demonstrate limitations in activities of daily living. Janet Ecker has said that she was willing to do this and we support and commend her for being willing to support that change.

The Chair: Excuse me, Ms Anger-Sheffield, you have about 30 seconds left.

Ms Anger-Sheffield: Okay.

It is equally important to include in the definition that persons who are suffering from compulsive addictive disorders — and maybe you could read that. They shouldn't be lumped in with others without being included in the disability definition because it is a disease.

Could you take one minute to listen to Lynne in regard to her overpayment statement? It will not be long.

The Chair: Very well. One minute.

Ms Prine: I guess the thing about overpayments is that oftentimes they come from office error. That's what happened in my case. I called up the family benefits office and I told them my intention to marry my children's father. They then directed me to the GWA office who told me that because he was an immigrant applying to come to Canada and he still didn't have his papers to live here or earn money here and he was only here as a visitor, there was nothing I needed to do at that point.

Then six months later FBA told me that no, because we had gotten married and the sponsorship went through, I should have been switched over to GWA. So despite the fact that I went through to all the people and even lawyers, through immigration, through family benefits and GWA, GWA actually made the error. He should have known that I should have gone on GWA at that point and yet I'm the one who's stuck with that bill. They made a \$7,000 error seven years ago. I'm still paying for it. Then because the marriage didn't last, which mostly had a lot to do with the financial problems. When I called up the family benefits office and asked them to reduce the amount of payment, they told me it was too much trouble to go into their computer each month to reduce it to \$20 as opposed to \$60.

I'm looked upon as one of these fraudulent people and I think I did everything properly. They made an error. Even the lawyer didn't know to argue administrative error at the time, and I understand from Mary Beth that these things are now wiped out. If the government makes a mistake, the recipient pays. That's fair? That's not fair.

1350

The same thing with assets. On FBA you're allowed \$5,000. I bought into education savings plans for two of my three children; I couldn't afford it for the third. But when they changed the baby bonus to collecting it yearly, like on your income tax, and gave it to you each month, I decided I would put some of that money to use and put it into education savings plans for the two children I could afford, paying \$40 a month out of the baby bonus, so that they would have a chance for an education later. Think about it: so they wouldn't be so dependent on the system later. That's what they want, to get an education to get a good job.

Now if you're going to lower the asset levels, they could really and truly say to me, "Well, you no longer qualify because you bought into education savings plans for your children." If you were allowed \$5,000 in assets last year, I think you should be allowed it this year. You

shouldn't be cut off, forced to cash that in and lose \$800 to \$1,000 off \$3,600 to administration costs to the Canadian scholarship plan and be forced to live off that money before you can even reapply for benefits. The asset level should remain the same. You shouldn't reduce it.

The Chair: Ms Anger-Sheffield and Ms Prine, thank you very much. The time is very short and goes by very quickly. We thank you for your presentation.

Ms Prine: Yes. Actually I thought we had half an hour, but I see it was 20 minutes. So thank you.

The Chair: Thank you very much. Could I call on the Canadian Hearing Society, please.

Interjection.

Ms Anger-Sheffield: Some assets should be exempt. Some assets, like a person who's struggling to use their income tax return or whatever to save for the children, should be exempt.

The Chair: Thank you very much. Mr Kormos, I would remind you that I am the Chair.

Mr Kormos: I knew that, Chair.

The Chair: Thank you very much.

CANADIAN HEARING SOCIETY

The Chair: Canadian Hearing Society, thank you very much for being here. I ask you to introduce yourself for the record. I also want to acknowledge Christal Dinner, who has been signing for us this afternoon and who is here courtesy of the Canadian Hearing Society, which is providing services for signing during these hearings.

Mr Phil Kyre: My name is Phil Kyre and I work for the Canadian Hearing Society. My job title is GSS, which is the general social service counsellor. I'll explain some of the things that I do. I counsel individuals. I do some advocacy rights, as well as access issues. I work on employment services and I work with other agencies, helping them be able to help deaf consumers. I also do technical devices: flashing lights; the phone systems, which are the TTYs. I cover the area of Hamilton, as well as Niagara Falls, St Catharines, Thorold and Brantford. I'm the only counsellor who covers that whole region.

I also would like to introduce my colleague. His name is Donald Pron.

Mr Donald Pron: Hello. I work as a counsellor supervisor in the Peel office at the Canadian Hearing Society in Mississauga. I cover Halton and Dufferin areas. It's about a 100-kilometre radius. My job is to focus on the counselling program. I supervise the counsellors and I do some counselling on my own. I do some advocacy, as well as Phil. I help with access issues. Today, Phil and I would like to bring up some concerns with the new Bill 142 and we'd just like to express those. I'll pass this back over to Phil.

Mr Kyre: I'll give you some background of CHS. CHS, for over 57 years, is a non-profit organization. They help deaf, deafened and hard-of-hearing. They include advocating for interests and promoting deaf consumers' rights. We have 21 area service offices throughout Ontario. CHS has prepared this brief proposal just to let

you know how we feel about Bill 142 and the proposal on the Social Assistance Reform Act, 1997.

CHS is pleased to support the intent of the proposed Ontario Disability Support Program Act announced by the Honourable Janet Ecker, Minister of Community and Social Services. The government has listened attentively to deaf, deafened and hard-of-hearing consumers and to CHS service providers and, as a result, has accepted some of our concerns. However, there are still some outstanding issues which require further study, clarification and/or incorporation into the act by the government.

Highlights of the program that the CHS supports are: no financial penalty if efforts at employment don't succeed; expenditures in supports to employment to almost double, from \$18 million to \$35 million upon implementation; the elimination of unnecessary medical assessment testing and other types of assessments; as well, for the assistive devices program we'd like to see the copayment of 25% eliminated.

CHS has the following serious concerns with the new legislation:

(1) The potential restrictions in eligibility for the Ontario disability support program income support benefits and supports to employment due to the definition of disability. Number one, that's a big concern for us.

(2) There's no provision for costs of accommodation services for sign language interpreters or computerized notetakers for interviews, hearings and appeals to determine eligibility for services or to receive the services from the ODSP programs.

(3) There is lack of clarity that verifications of eligibility should be done by a person with the prescribed qualifications for determining functional loss — ie, the impact of disability, the impact on the client's communication, social and vocational situations dealing with deaf, deafened and hard-of-hearing — and not solely from a medical perspective.

(4) Repealing the current legislative commitment to fund post-secondary students with disabilities — deaf, deafened and hard-of-hearing — for disability-related supports, which involve listening devices, sign language interpreters and computerized notetaking.

(5) Inherent misperceptions that mainstream service providers accessed through competitively selected local service coordinators can meet the needs of deaf, deafened and hard-of-hearing people for employment services.

(6) We have uncertainty over how various VRS support services will continue.

(7) The apparent insignificant funding being allocated to ODSP hasn't been clarified yet.

(8) The need for complimentary legislation — ie, the Ontarians with Disabilities Act — to ensure success of ODSP; ie, to ensure MET provides comparable access services for post-secondary students out of province.

Our concern is how the information for eligibility criteria will be put out to the public. Another question is how deaf, deafened and hard-of-hearing will apply for top-up. Also, if students don't qualify for CSL because of

parental income, will they be ineligible for top-up funds as well?

We'd like to know the standards to ensure equal access for deaf post-secondary students with hearing counterparts. What is the transition plan and how will the transfer be implemented to the ODSP to ensure that students and other VRS consumers get the support they need requested within an effective time frame? We'd like to see if some of those have been changed.

Will MET now fund literacy training programs to individual tutors at private clinics or will deaf, deafened and hard-of-hearing students be able to access supports through service coordinators? Will deaf, deafened and hard-of-hearing students with this high level of need be accommodated through MET, or will they have to access through other service providers or service coordinators? Will your government ensure that local service coordinators reduce the backlogs, making sure they can provide supports and training dollars to catch up with those backlogs?

1400

Mr Pron: There needs to be a recognition that quality employment services need to include aspects of counselling, ie, career guidance, market research analysis. These are essential to ensure consumer satisfaction and government savings over the long run. Those people have to understand the needs of deaf, deafened and hard-of-hearing people.

The act, Bill 142, needs to clearly state that sign language interpreting, computerized notetaking and specialized communication devices will be provided as part of the provisions of income support or employment services.

Furthermore, responsibility for payment of accommodation services must be clearly put among government, private sector providers or employers. Establishment of an accommodation fund would allow for partners to contribute their fair share and have funding readily available for consumers so that the need is never denied because of communication inaccessibility. We want to see a partnership set up.

In terms of determining eligibility for ODSP — income support benefits and supports to employment — the client's and/or consumer's request should be accepted where the disability can easily be substantiated. For example, an audiologist's report and grade report from the provincial school for the deaf where the individual attended should serve as enough information to determine their eligibility.

Mr Kyre: CHS has a list of some recommendations for eligibility criteria for local service coordinators to include expectations that specialized services can be provided through a contract or purchase-of-service agreement between an agency and CHS and the service coordinator. This would be good to ensure that services are offered in an accessible environment by staff who have proven sensitivity to and understanding of deaf, deafened and hard-of-hearing consumers. This recommendation would ease the consumer's deep concerns, especially if the

service coordinator determining eligibility in a local community comes from the for-profit sector, which presumably can occur in a competitive process.

CHS recommends that the Ministry of Community and Social Services work with the Ministry of Citizenship to have the Ontarians with Disabilities Act passed. This will strengthen the Ontario disability support program — supports to employment — and improve outcomes of local service coordinators.

As well, CHS recommends that the Minister of Community and Social Services work with the ministers of citizenship and education and training to include legislative commitments in the Ontarians with Disabilities Act that would fund post-secondary disability-related supports and also one-to-one tutoring and literacy training programs.

Mr Pron: In conclusion, the Canadian Hearing Society is pleased to support the intent of Bill 142, the Social Assistance Reform Act, and also the proposed Ontarians with Disabilities Act at a later time.

Deaf, deafened and hard-of-hearing consumers value the specialized services such as those provided by the Canadian Hearing Society. They believe that the Canadian Hearing Society is best equipped to meet their services because of the agency's expertise in meeting their communication needs. CHS has specially trained counsellors and staff who can communicate directly with consumers. In addition, some of those staff themselves are deaf, deafened or hard of hearing who have experienced the difficulty of conducting a job search and know the barriers that can be overcome. Furthermore, new barriers such as technology, physical work environment and contract work are making it even more difficult for deaf, deafened and hard-of-hearing persons to be trained, hired and promoted on the basis of individual merit.

The Canadian Hearing Society is supporting Bill 142, the proposed Social Assistance Reforms Act, 1997, but with some reservations. CHS wants the issues outlined in this paper addressed before the Ontario government passes Bill 142. Furthermore, Bill 142 on its own is not significant enough. We feel that it is essential that the government draft and pass the ODA bill to ensure that comprehensive employment services and opportunities are available.

It's important to note that on October 9, 1997, the Supreme Court of Canada ruled unanimously that the failure to provide sign language interpretation where it's needed for effective communication in delivering health care violates the rights of the deaf person. The ruling further states that the government cannot escape constitutional obligations by passing on the responsibility for policy implementation to private entities not directed under the Charter of Rights' jurisdiction.

This decision reaches far beyond the deaf community and will touch every Canadian who has a disability. The court has made the equity guarantees in the Charter of Rights real. Businesses, hospitals, the community, faculties — all are affected by this landmark decision. The decision requires the removal of barriers that prohibit full

participation of persons with disabilities. The provincial government will need to ensure that Bill 142 and, subsequently, the ODA are consistent with the Supreme Court's decision.

Thank you. That's all we had. At least we stayed within our 20 minutes, I see.

The Chair: You did it in 17, so we have one minute per caucus. We start with Mr Kormos for the NDP.

Mr Kormos: Thank you, gentlemen. You should know that we've heard from the Canadian Hearing Society across this province, north, east, west and now here in Niagara.

When we take a close look at section 32, dealing with the employment supports, the section interestingly uses the word "may"; that is to say, "employment supports may be provided." Obviously it's a totally discretionary thing. It causes me, and I would ask you, does it cause you some concern that there are no baseline rights to employment supports but rather it's solely a discretionary proviso?

Mr Pron: Yes. I'm happy that you brought that up. The word "may" is a famous political word that's used. It looks good, but as far as action happening from that, you're right; the "may" needs to be changed. I'm happy that you brought that up.

1410

Mr Klees: Thank you very much for your thoughtful presentation and also for your recognition of a number of the very positive things that have evolved from this legislation. We thank you for your input during the consultation process.

In the short time I have, I want to just refer to a couple of points that you questioned. With regard, for example, to the lack of clarity, as you say, with regard to eligibility, those specifics will be forthcoming in the regulations. We have ongoing consultations around that. I certainly think you'll be pleased with the results you'll see there.

With regard to some of the support services you mentioned, I want to leave you with a sense of assurance that it is not the intent of the government to sidestep on this or to withhold. It is clearly the intent to support those who need whatever supportive devices are necessary. I want to point out as well, however, that the Ministry of Education and Training will be assuming some of those responsibilities. Our ministry is in discussions currently with the Ministry of Education to determine just who does what on that point.

Mrs Pupatello: I'd like to have a comment from you, please, whether those clients you work with through your agency and perhaps you yourself consider a hearing impairment as a substantial impairment or substantial disability. I ask that because if the answer is no, then you don't get over the bar in order to access employment supports at all. My greatest concern is that for individuals with some sort of disability that is manageable — clearly with an interpreter it certainly is, as you show us — do people with hearing impairments consider themselves to be substantially disabled? If the answer is no, then clearly that wouldn't entitle you to meet the criteria to access the supports.

Mr Kyre: I'll give you an example; maybe that will give you a good answer. We have two deaf people, and their dB is decibel loss. For example, the audiologist will say that they both have the same hearing loss. If I have the same hearing loss as someone else but I can speak and the other deaf person can't speak, they have no verbal skills at all, how do you weigh out the difference? I may not consider myself to have a substantial impairment because I can still voice for myself, but another deaf person who doesn't have that capability of doing that has a more serious disability. It gives you an idea of how two people can have the same hearing loss but one can cope better because they have the speaking skills and the other one doesn't. Does that give you a better idea?

The Chair: Thank you very much, Mr Kyre and Mr Pron, for being here and for making your presentation so forcefully.

Mr Pron: Thank you for giving us the opportunity to come here.

REGIONAL MUNICIPALITY
OF HAMILTON-WENTWORTH COUNCIL
REGIONAL ADVISORY COMMITTEE
FOR PERSONS WITH PHYSICAL
DISABILITIES

The Chair: The Regional Municipality of Hamilton-Wentworth Council, Regional Advisory Committee for Persons with Physical Disabilities, Mayor Ted McMeekin, Graeme Aitken and Michael Schuster. Welcome, gentlemen. Thank you very much for being here. We're very pleased to have your worship with us as well.

Mr Ted McMeekin: We're pleased to be here. I have with me this afternoon Mr Graeme Aitken, a member of the Regional Advisory Committee for Persons with Physical Disabilities, and Mr Mike Schuster, our commissioner of social services. We want to thank the members of the standing committee on social development for granting us the opportunity to come and share our opinions, however briefly, with you.

The Social Assistance Reform Act legislation tabled by the provincial government is historic and will alter the way that social assistance programs are delivered across the province. We appreciate not only having the opportunity to make a written submission to your committee but also being able to provide our comments to you in person here today. As requested, we have delivered 25 copies of our detailed presentation — a little late-night reading for the group. Our presentation will be divided into three sections. I will offer, as is appropriate as a political representative, some general comments and a few specific comments related to the Ontario Works Act. Mr Aitken will be discussing some key areas under the Ontario Disabilities Support Program Act.

By way of those general comments, we believe the provincial government should be, and indeed needs to be, commended for streamlining the current social assistance

systems into two new programs: Ontario Works and the Ontario disability support program. The region of Hamilton-Wentworth has long supported the streamlining of this legislation and is pleased to offer some comments on this new legislation today.

The legislation clearly links employment and financial assistance in both programs. In the Ontario Works program, the linkage is mandatory, while for persons with disabilities, employment supports are to be made available for persons wishing to seek employment.

We appreciate that the legislation does not contain many of the specific details required to implement the acts. Since municipalities like Hamilton-Wentworth have a significant amount of experience in delivering both financial assistance programs and employment programs, we recommend that the province should consult extensively with municipalities like Hamilton-Wentworth regarding the final wording of the regulations and certainly before they are finalized. We implore you to do that, please.

As it relates to the Ontario Works Act, as I have already stated, the regional department of community services has prepared a detailed response. That detailed response went before our regional council and was endorsed, so that is the official position of the council of Hamilton-Wentworth.

Instead of reviewing all of the items identified in our written submission, I want to focus on two areas in the legislation that we would like to see changed — we suspect you want to hear from us about that — and areas in the legislation that may be confusing, where some clarification may be in order.

Of the areas that require change, we want to specifically note the 60- to 64-year-old age group. In Hamilton-Wentworth we are interpreting the new legislation to mean that all those aged 60 to 64 will not be transferred to the Ontario disabilities support program as in the past and that these recipients will have a mandatory requirement to participate in the Ontario Works program. This proposed change would also have a direct financial impact on those in this age bracket, who will not be grandfathered on to the Ontario disabilities support program.

The region recommends to your committee that the provincial government indeed consider allowing those aged 60 to 64 to be transferred to the Ontario disabilities support program. They should be allowed to participate in the Ontario Works program on a voluntary basis.

With respect to the sections in the new legislation dealing with foster children, as of January 1, 1998, we note that all benefits for foster children will be administered through the Ontario Works Act. Although we appreciate that the system for the administration of benefits to foster children needed to be streamlined, it is our opinion that issues related to foster children would be more appropriately and adequately addressed within the child welfare protection system rather than the Ontario Works Act. So we'd ask, respectfully, for your committee's consideration of that particular note from us.

With respect to domiciliary hostels — we refer to them as “second-level lodging homes” — they form an integral component of our total housing care option in Hamilton-Wentworth and really provide a service to many of our most vulnerable citizens in Hamilton-Wentworth. Residents of these homes are often seniors and/or persons with either psychiatric or developmental disabilities, but without much housing and care, many of these residents could end up living in the streets, particularly if, as we fear, there may be some major changes related to the closing of the psychiatric hospital in Hamilton. We’re waiting in breathless anticipation to see what the hospital restructuring group comes up with, but we’re worried about that.

1420

Although the domiciliary hostel program provides a critical housing care component in some municipalities, the new legislation does not make reference to the domiciliary hostel programming in either the Ontario Works Act or the Ontario Disability Support Program Act. As of January 1, 1998, municipalities like ours will be required to pay 100% of the cost, if the legislation is put forward in its current form, of this discretionary program. In Hamilton-Wentworth that figure amounts to roughly \$2.6 million.

The region of Hamilton-Wentworth would respectfully recommend to this committee that the provincial government acknowledge the importance of the hostel program by including it under the Ontario Disability Support Plan Act section of the legislation.

With respect to areas that we believe require clarification, the sole-support parents and mandatory participation section, we understand from the legislation and from our own experience as the first site delivering the Ontario Works program that sole-support parents will be required to participate in the Ontario Works program when their children reach a particular age. However, we note with some concern that the age is not defined. We recommend strongly to the committee that the provincial government define a specific child’s age in which participation of sole-support parents would become required under the Ontario Works program. We think that clarification would frankly be helpful.

With respect to the special assistance program, the legislation and regulations under the new Ontario Works Act must clearly specify which items will be covered under the program and provide some direction as to whether the program will be limited only to persons on assistance. Currently municipalities are able to offer special assistance items and services to the working poor or low-income families. This flexibility does not appear to be evident in the current legislation.

The region of Hamilton-Wentworth respectfully recommends that the provincial government provide more clarification regarding items you consider eligible for funding under special assistance and give us some help defining who you believe should be eligible for these benefits.

The province should be commended for eliminating the two-tiered system for dental and vision care for children

younger than 18 on social assistance in Ontario. Although this change would ensure that all children less than 18 will receive the same level of vision and dental care, the legislation does not include the level of care that would or should be covered, or how that benefit will be accessed under the Ontario Works Act. As the standing committee is already aware, these benefits are accessed differently within the current GWA and FBA systems, so we think there needs to be some clarification with respect to those programs to provide some necessary guidelines, since we’re not wanting to see a patchwork quilt of services develop right across the province.

At this time, I’d like to invite my colleague Graeme to discuss the Ontario disability support program with members of your committee.

Mr Graeme Aitken: First, I’d like to echo Mr McMeekin’s thanks for your time in granting us standing before the committee and listening to our submission. I don’t intend to read from the submissions. I trust everyone is capable of doing so and will do so. But I do wish to draw your attention to some specific points in our submissions.

First, under the heading of “Background” on page 1 of our submissions, I think it’s important that you note the composition of the Hamilton-Wentworth Regional Advisory Committee for Persons with Physical Disabilities. Two regional councillors sit on the advisory committee, and one of these members is the committee chairman. All other 11 advisory committee members have disabilities, have family or friends with disabilities and/or have a direct professional interest in disability issues. In addition to these associations, members also cross-represent a large service club, labour law, seniors and volunteer services. As you can see, our committee truly represents those individuals and groups who will be most affected by the proposed legislation, the legislation we’re discussing here today.

Much like Mayor McMeekin’s presentation, I wish to approach this in two distinct parts: First and absolutely foremost in our minds, make no mistake, we want to commend the movers of this legislation for the recognition of the need for independence and employment opportunities for persons with disabilities. Our committee has long recognized this, and we applaud others for doing so. Further, it’s hoped that by taking such progressive steps, we can begin to have these persons with disabilities in the mainstream of society and not as a series of disfranchised groups on the edges.

There can be little argument with the purported aims and goals of the proposed legislation, particularly as they’ve been articulated in the backgrounder document — I don’t know if that’s the proper title for it, but none the less the documentation distributed by the Ministry of Community and Social Services in June of this year. In fact, we wholeheartedly support all the goals and the unbridled integration of persons with disabilities into the economy of Ontario.

The goals we are particularly glad to see forwarded are the recognition that people with disabilities can and do

want to work, and as a result, a commitment to improving the employment support systems for these individuals.

We applaud the elimination of what we perceive to be disincentives to people with disabilities accepting work, the easing of financial restrictions and freeing of moneys to allow persons with disabilities to function in the manner that those of us who are currently able-bodied simply take for granted.

Finally, the acknowledgement of the need for standardized practice in this important area across the province of Ontario.

However, we have concerns. I want to address the concerns so that you might ask us questions on them. The concerns begin at page 4 in our submissions that we've put before you. Again, I don't plan on reading through them and I don't have the time to go through all the concerns. I do want to highlight two very important concerns, however. Please don't misunderstand that this means we're less concerned about others; we're concerned about all areas that we address before you.

Definitions: Concise, well-articulated, understood, even accepted definitions are nowhere to be found in the legislation. Specifically, we were unable to find definitions for the following words: "disability," "vulnerable," "substantial barrier," "substantial restrictions," "permanent serious disability," "those who qualify" and "eligibility." None appear in the definitions section.

I'm going to be told that in part I, section 4, there's a definition for "disability," but in that definition for "disability" are the words "vulnerable," "substantial barrier" and "substantial restrictions." They're not defined. Thus, it's our position there's no definition for "disability."

These terms and the words in our view are rather substantial. They're fundamental to the scheme of the proposed legislation. It would seem that if they're that fundamental, there should be no question as to the meaning of either these words or these terms. As a result, we strongly and respectfully submit that these definitions be finalized before passage of the legislation and that they be articulated through consultation and discussions with groups such as ours.

The second set of concerns I wish to address today are those listed under the "Accommodations and Employment" section at page 5 of our submissions. I'm going to focus on employment, and I don't want to suggest, again, that we're less concerned about accommodation, but I deal with the employment portion particularly given the time constraints, but also this legislation appears to embrace an employment philosophy. That seems to be the whole thrust behind the disability legislation.

1430

We applaud the recognition that supports provided to those with disabilities enhance the opportunities for full and gainful employment. I would echo Mr Kormos's concern, though, for the discretionary nature of those.

It does not appear, though, that there is any recognition for the varying types and degrees of disabilities throughout the community. In other words, some disabilities are going to require greater supports than other disabilities. It's

going to depend on the nature of the disability and it's going to depend on the degree of disability, both. So our committee strongly recommends that the amount of support not be determined on the basis of personal income or other objective factors. These determinations must be made based on the individual case, on the disability and the impediment that disability creates for that individual.

It also ties in to our concern over the establishment of community-based delivery agents and the mandate under which they will operate. Quite simply, if a contract renewal for a community delivery agent is based on outcome results, jobs they've provided, what does that do for those who have more severe disabilities? Our concern is that if we're on strictly a "How many jobs did you produce?" basis for renewal of contract, agency 1 will put out 100 disabled people with jobs; agency 2 may only put out 50. However, agency 1 may have put out 100 people with — and I don't mean to demean any disabilities — less severe disabilities while agency 2 put out 50 people with more severe disabilities. So it must be taken into consideration when we're looking at who we give the contract to. Quite simply, our committee doesn't want to see a system established where the result becomes disabilities being rated for the purposes of employment.

Finally, with respect to our concerns over employment, under the proposed legislation there doesn't appear to be any reference to part-time, temporary or short-term employment positions. Would these positions have a negative impact on a person, would they be a disincentive to accepting a job? What of the newer, non-traditional types of work that we're seeing — independent contractors, home work, contract work? They don't seem to be contemplated at all. We've taken a very narrow and traditional view of work into this legislation.

As I said earlier, it appears to employ a philosophy of employment. Where are the employers in this proposal? I don't see them anywhere. None of us could find them. We couldn't find any reference to obligations, expectations or any other mention of employers in an employment-based scheme. Including families as a partner in this proposal while leaving out business seems absolutely contrary to the scheme and its goals.

Thus, the Hamilton-Wentworth Regional Advisory Committee for Persons with Physical Disabilities respectfully recommends that the definitions relating to disability and eligibility be addressed expediently; that direct payments to landlords and utility companies be administered in very special circumstances and only as a last resort; that only medical professionals of an ODSP recipient's choice complete required medical assessments; that accommodations needed for employment or daily living not be restricted by the type, extent or cost of prescribed devices; that for working people personal income taxes continue to be used as the vehicle for deducting disability expenditures; and that an objective appeal process for applicants and recipients be developed and implemented.

I just want to leave you with one final thought that was first put to me when I became involved in acting on behalf of issues for disabled persons. The group labelled as

disabled is increasingly growing. When one considers the rapidly aging population and the apparent increase in accidents, this group is going to get exponentially larger. We who are able-bodied are only temporarily so. We are able-bodied for only a short time. We will have disabilities in future, whether they be decreased hearing, impaired visibility, less mobility. This proposed legislation is not just for those who are disabled today. It is there for all of us, there for tomorrow.

The Chair: Thank you very much, your worship and gentlemen, for a very thorough and thoughtful presentation. I regret that you've used up all of the available time.

Mrs Papatello: May we have just a couple of minutes per caucus? I think they're the only municipal representatives today on the agenda.

The Chair: Is there unanimous consent? We have unanimous consent for two minutes per caucus for questioning. We begin with Ms Papatello for the official opposition.

Mrs Papatello: You've been involved with the pilot project with workfare to date?

Mr Michael Schuster: Yes.

Mrs Papatello: What was your business plan number outline, that you were to reach how many participants?

Mr Schuster: We were supposed to be reaching close to 100 participants in the voluntary community participation per month.

Mrs Papatello: And now where are you at?

Mr Schuster: We're approximately 27.

Mrs Papatello: That's 27 out of 100. Do you see any purpose for the million dollars on a campaign for workfare that the Ministry of Community and Social Services is now spending, given that workfare is mandatory for the participants, as we know, and municipalities as well? When you answer that, could you tell me too if you've been given the criteria yet for you to access that wonderful fund that's going to make up the shortfall in the cuts to transfer payments? My question is related in that in my view that fund has been so politicized that if you don't follow the rules in terms of workfare, as an example, you'll be punished as municipalities out there and not be given the funding because all of it will be political.

Mr McMeekin: That was certainly part of the dynamic of the debate as we began to explore the workfare program and it caused us some considerable concern. Hamilton-Wentworth was one of the groups that had indicated, not only a willingness, but we followed through in terms of trying to help define some of the parameters so that the workfare program, which in our highly unionized area wasn't particularly well received, at least, we hoped, would make some sense based on our set of principles and criteria we developed.

There's been a dynamic tension there that has resulted, as I understand it — maybe Mr Schuster could comment on it — already in some budgetary shortfalls, given our concern to make sure that we could be as principle-based as possible, yet running into some bureaucratic hassles that delayed the transfers of funds to us.

The Chair: I'm going to give the floor to Mr Kormos.

Mr Kormos: First of all, congratulations. You're only the second municipality that's come to the committee. I'm sure others have done this type of work. The city of London and yourselves are the only ones —

The Chair: And North Bay.

Mr Kormos: — and North Bay — that have come to the committee with this type of analysis. It's obviously a well-thought-out one.

I want to refer back to, because it was October 22, the press release from Ms Ecker, wherein she explained — because she's got this ad campaign, that's the one Ms Papatello referred to, this \$900,000. It's like those pictures of happy collective farm workers in the Ukraine, you know, that the Soviet Union used to publish in Northern Neighbours and magazines like that, because these are pictures of happy workfare workers. Ms Ecker says that municipalities requested that she embark on this ad campaign, that she's doing this in response to the request of municipalities. There are many municipalities in Ontario, but did Hamilton-Wentworth request Ms Ecker to spend \$900,000 on an ad campaign for workfare?

Mr McMeekin: We've had frequent discussions with Ms Ecker, but I don't recall that we ever asked for an ad campaign to be launched, Mr Kormos.

Mr Kormos: Interesting, okay.

Mr McMeekin: We're pretty frugal with our bucks in Hamilton-Wentworth and we know this committee wants to follow through and be good stewards of resources as well.

Mr John L. Parker (York East): Thank you very much for your presentation this afternoon. Thank you for the work and effort that went into preparing it and delivering it here this afternoon. You obviously have a lot of experience with this subject matter and have put a great deal of thought into it. In your estimation, do you think the goals and principles of the government's workfare initiative are well understood by the public?

1440

Mr Schuster: No.

Mr Parker: What steps might you suggest the government should take to increase that understanding among the public?

Mr Schuster: From our experience, the misunderstanding is with regard to the components of the Ontario Works legislation, which deals with, as we saw it, an opportunity to get people on social assistance into employment. That being the focus is often lost through the discussions around the mandatory community participation, which makes up, in our opinion, a smaller component of the whole program. We saw it as an opportunity to consolidate our employment programs helping folks get back into the labour market and providing the employment supports. That part of the program is what I think is not understood by the general public at large. The focus has been on the mandatory community participation.

The Chair: Thank you very much. Your worship, in particular I thank you. Your commitment to the work that the region is doing is evidenced by your presence here

today. We thank all three of you for the thoughtful presentation.

HAMILTON AGAINST POVERTY

The Chair: I call Hamilton Against Poverty, Julie Gordon and Wendell Fields. Thank you very much for being here. We appreciate your intervention.

Ms Julie Gordon: My name is Julie Gordon. I am very grateful to be here in front of this committee because this is the first time I have had the opportunity to express my anger at the government directly. I feel this whole act is disrespectful to mothers. It is discrimination against women.

Let's look a little at history. Mother's allowance began in 1920 in order to compensate families of war victims. Nowadays, mother's allowance serves many victims of family violence. The first public assistance programs were based on need, and today, although circumstances have changed, the needs are basically the same. In the past, when families moved into the cities from the farms, the extended family broke up; therefore, people lost that support. Nowadays, it is almost rare for people to depend on extended families. Back then, families lost the breadwinner during the epidemic; now it is because of injury or illness. There are many similarities between past and present.

But the major difference between now and then is that in the old days people believed that mothers should be at home and it was the public responsibility to support mothers in the home. I am here today to tell you that that belief is not yet dead. My mother was a stay-at-home mother. My next-door neighbour is a stay-at-home mother. The only difference between them and me is their marital status; I don't have marital status. But I am still the head of the household. I am sorry, but married or divorced or not married, I am a mother, and I believe that mothers' work in the home is important and should be recognized.

What happened to those Real Women who used to defend the role of mothers in the home? I know what happened to one of them. She is an MPP for this Conservative Party, in Hamilton West, and her name is Lillian Ross. I know some of you Conservatives agree with a mother's role.

I certainly believe that as a mother on mother's allowance I deserve every penny, whether my child is in school or not. Housework and child care are work. I am not ashamed of being on mother's allowance, and this government is not going to make me ashamed. I am not ashamed of being a mother.

This government has turned the public against disadvantaged people, and I refuse to go along with it. A person does not lose their value as a human simply because he or she is unemployed or lacking marital status. I remember that the previous government increased the allowance given to sole-support parents. The Conservative government has cut us back and will probably be cutting us back again. The government has no right to do this.

Now the government wants people to pay back social assistance costs when they are working? This is already being paid for by taxes. Isn't this what they call double-dipping?

Speaking of illegalities and fraud, Bill 142 is not going to prevent fraud. It is going to create fraud and encourage fraud because the government is taking away people's choices. I don't believe there is enough fraud to warrant the changes of Bill 142. If people commit fraud, it is because we are living in a materialistic society. People are not going to stop wanting more possessions, and they deserve more possessions.

Women do not deserve to be forced into staying in an abusive relationship because they are afraid of being destitute. Mothers should not be forced into workfare, no matter how old their children. Mothers certainly need the opportunity to breast-feed their children as well.

By forcing mothers into workfare, the government is also forcing social workers into a policing role instead of a supportive role. This will have a ripple effect on other social agencies.

The Children's Aid Society of Metropolitan Toronto has opposed workfare on the basis that there may be serious impacts on children, including parenting under conditions where parents are severely stressed by poverty, especially poverty compounded by forced labour and ineffective programs. The breakup of programs under Bill 142 is inevitable.

These are the reasons I am angry, and there are lots of people out there who are angry. They are just not showing it — not yet.

Mr Wendell Fields: The barbaric, anti-democratic decisions being made by the Ontario government today are a continuation of the decisions made by the previous provincial government and are in line with the decisions the federal government of the day is implementing. No government at any level in this society represents us.

Today we come here representing ourselves, the target of oppression. We will not accept this oppression, and we will struggle and fight to make this oppression a thing of the past, a thing which our children and our children's children will read of only in the history books.

We are beings who are human. We demand that we live in a society that permits us to live to our fullest human ability, to the highest standard of living that society can create, as individuals, as individuals in collectives, and as collectives. We will build that society ourselves, because this is what it means to be human, to be social beings. We will not be individual slave animals any longer.

Hamilton Against Poverty is an independent organization of social assistance recipients. We will have our own independent voice.

We salute those who come here for taking a stand against the oppression of the impoverished in this society. We will fight to put an end to this brutalization in this society by adhering to our right to be human, regardless of frontiers. It is clear that these assaults upon us must be countered. It is also clear that, protesting aside, we must take legal action, and new and innovative methods of

struggle also need to be developed. We need to affirm and assert our full rights to live as full human beings in a social environment, in practice, in reality, in all aspects of our individual lives, in our collectives and in our society.

On a weekly basis, new sectors of the people are being slapped in the face, brutalized, oppressed. An anti-social trend is developing, a hysteria that does not permit us to think, that does not permit us to work, that does not permit us a human life. This trend blocks us from moving forward to developing a new, higher level of social being.

A new trend is also in the making, of which we are part, a pro-social trend which excludes no one from participating in making, implementing and administering decisions at all levels in society. This new pro-social trend will continue to fight to move forward, to think, to work, to plan, to organize, to implement and administer the new societal project, to build a new, human social society. The pro-social trend will break the anti-social trend once and for all, and we will live as free human beings in a society that we created as a people — we the poor, we the workers, we the small shopkeepers, we the pro-people professionals, we the people, we the oppressed who refuse to accept our oppression.

1450

Hamilton Against Poverty salutes you who are the oppressed today, who will be the free human beings of tomorrow, and calls upon you to exercise and enforce your rights as human beings. Work out a plan of action and organize to put it into practice, put forward your demands, fight to build a new society. Each of us born into this society has rights, because we are born as human beings. Because we are human, we have certain claims on society that society is obligated to meet so as to ensure that we live as human beings should live. Present governments at all levels have abandoned their social responsibility. Maximum private profit-making is depriving us of our human life. We will not accept this.

Hamilton Against Poverty thinks society's aim should be to end unemployment and poverty. We think the people, especially the workers as well as the unemployed labourers who make up the majority of first-time welfare recipients and those who are retired, should take the lead in taking all the necessary measures to achieve this new aim of society, the ending of unemployment and poverty.

This is a leaflet we produced on Friday, August 25, 1995: *Our Rights as Human Beings are Violated; Affirm Your Rights. Now we come to the present and the future.*

Funding of social programs is a necessary investment for economic and social development. It is an essential feature of a modern and humane society. It is a major method of putting more money back into the economy than is taken out. Even though existing social programs are weak and marginal, they are one of the aspects of society that is modern and humane. To cut them is to declare this government is seeking an outdated, brutal society.

This government and others after it, due to the passage of Bill 26, will have dictatorial powers and rule by decree. It should be pointed out that this arrangement was made after the leaders of all three parties cut a deal, ratified in the caucuses, to pass Bill 26. Very well. You want to stifle

democracy? You can have this form of rule. It is not ours. We will arrange our own democratic state by selecting and electing our own representatives and participating in governance.

Hamilton Against Poverty is running a number of our own candidates in the municipal elections and is encouraging all collectives, associations, societies, plant workers, professional groups and so on to do the same, to become political on your own terms and go directly for power without any mediator.

This government is seeking to privatize the delivery of social programs, to have social program delivery as a profitable business. It is my view that profit has no business in social program delivery. What are we going to have, monopoly fiefdoms competing against and killing each other to get maximum profits for themselves at our expense? It is well known historically that such medieval systems were overthrown and society progressed to a higher level. Must we repeat this again?

Society must develop to the level of being responsible for the claims of its members upon it. The supercities are creating economies of scale and service delivery so that large monopolies can profitably take them over. It is only by organizing ourselves collectively and demanding and creating a society that can actually meet our needs by ending this subservience to the financiers and monopolies that we defend our rights as human beings. It is only when the workers take the lead in beating back this government's offensive that we can make inroads into governing ourselves in our own social society.

We as social assistance recipients stand shoulder to shoulder with the teachers, with all public sector workers, as all people fighting for their rights as human beings should. We vow that no government has any mandate to govern us as long as they continue to meet the demands of the rich and not the demands of the people. We will not surrender. We will continue to fight until victory is achieved. We warn you that any political party which comes to power and begins to implement the agenda the financiers have for you will face the wrath of the people until you are all defeated. We are coming to see that we do not really need this political party dictatorship every three to four years, especially when they continue to take the risk for the monopolies and ignore the demands of the people, demands for a human society. Ignore us at your own peril, because we will break this alliance of political parties with the monopolies and financiers. A modern society is based on arrangements which systematically increase the services available to guarantee the people's wellbeing and quality.

We demand that this and any future government stop paying the rich. We demand that this and any future government increase funding to health, education and social programs and that it be enacted in legislation; that any cuts to health, education and social programs by any government be considered an indictable criminal offence under the Canadian Criminal Code.

Hamilton Against Poverty organized a demonstration when Ms Janet Ecker came to our city. At that time, we issued a warrant. It says:

"Warrant for the search of the premises of Sheraton Hotel, King Street West, Hamilton, Ontario, Canada, known present domicile of one Dishonourable Janet Ecker, Progressive Conservative member of provincial Parliament of Ontario and a known cabinet minister in the government thereof. To wit, that Janet Ecker, in a conspiracy with other known individuals in the abovementioned government, also named in separate warrants issued by this court, is withholding public funds belonging to the people of Ontario and may be in possession of said funds at the abovementioned address for the purpose of ungainful and criminal distribution of said funds to persons and corporations not entitled to them.

"Let it be declared hereby this court grants the bearers" — and it names a number of organizations — "the right to enter the said premises so noted above for the purpose of conducting an investigation into establishing the veracity of the above claims and also hereby grants the above bearers the right to search and seizure of said evidence and also the right to search and seizure of any further evidence which pertains to this and any other probable crimes committed by the abovementioned Progressive Conservative government of Ontario, its leadership, co-conspirators and abettors against the people of Ontario and Canada.

"Signed this day of September 29, 1997, in the people's court of public opinion by the people of Hamilton, Ontario and Canada."

The Chair: Thank you very much. We have about a minute per caucus. We'll begin with the Conservative caucus.

Mr Klees: Sir, do you believe you have an obligation that goes along with the rights that you have?

Mr Fields: Yes. Rights without obligations are nothing.

Mr Klees: What I mean is that I don't disagree with you that government has an obligation to support people who have no means of supporting themselves.

Mr Fields: Why does the government take the risk for corporations?

Mr Klees: Let me finish my question. Would you agree that as a recipient you also have an obligation to the people of this province to do what you can to become actively involved in the community?

Mr Fields: I am actively involved in the community, sir.

Mr Klees: Either through community participation —

Mr Fields: I don't believe in slave labour or compelled labour or coerced labour.

Mr Klees: Neither does this government.

Mr Fields: Sir, I have been compelled into these programs and told I had volunteered, which is a lie.

Mrs Papatello: Julie, I wanted to ask you a question specifically. Our greatest concern about workfare — we've seen it implemented in American jurisdictions. In some places where they say it has worked, they've also introduced significant child care supports, they've introduced other measures like transportation supports. These

people who implemented the program recognized that in order to have workfare, which they considered their employment springboard for those on assistance, they knew it meant significant funding of the program. Not only are we not doing that here, but we're actually going in the reverse. We are significantly lacking in child care to start with, never mind what it's going to be when these people need to move in. Transportation issues for rural and northern Ontario are real, real issues to try to implement this. It speaks to our position that life just isn't simple out there; that you can't have two baskets with this piece of legislation, one for those with disabilities, if you qualify, and everybody else lumped in this big basket called workfare. You have any comments?

Ms Gordon: You're right, transportation is a big difficulty for anybody on welfare. I spend major time in my day walking. With workfare, a lot of people aren't going to have time to go to the food bank or go and get a meal at the Good Shepherd, because they're going to be busy in a workfare placement. So a lot of the supports they're used to accessing are no longer going to be available to them.

Mr Kormos: Once again, thank you kindly. Secondly, and following up on what you were just saying, my impression very distinctly, based on the folks we've heard from during the course of this week across the province, is that when you're trying to keep body and soul together and keep your kids from being painfully hungry, you're talking about work at an intense level that's a 24-hour-a-day project. You talked about food banks and, I presume, soup kitchens. We heard from one woman who systematically, one day per week, doesn't eat herself. That way she can allocate those funds to making sure that her 15-year-old son is fed as best she can. What are some of the other things?

1500

I'm afraid there are a whole lot of people on this committee — the minimum wage at Queen's Park is just shy of 80 grand a year. That's the minimum wage at Queen's Park. The assistance paid to social assistance recipients was raided to the tune of 21.6% to help finance a 40% salary increase that this government gave the MPPs at Queen's Park and to help finance a \$109-million pension plan by —

The Chair: Mr Kormos, do you have a question?

Mr Kormos: Can you respond to that, if you're inclined?

Mr Preston: Mr Kormos got his share of that payout too.

Mr Kormos: I never advocated chopping welfare budgets by 22%, Mr Preston.

The Chair: Excuse me, the question has been asked.

Mr Kormos: Mr Harris is in the millionaires' club.

Mr Preston: He's the Premier and you're not.

The Chair: Gentlemen, please. This is Ms Gordon's time.

Ms Gordon: I can see that a lot of people who really need that money could be supported by \$80,000 a year. I live on almost \$1,000 a month, so if you had \$80,000 and

stretched it out among the people on welfare, you'd be able to feed a lot more people.

The Chair: Thank you both very much for being here. We appreciate hearing your views.

McQUESTEN LEGAL AND
COMMUNITY SERVICES
CHURCH IN SOCIETY NETWORK
HAMILTON CONFERENCE,
UNITED CHURCH OF CANADA
BRANT COUNTY
COMMUNITY LEGAL CLINIC

The Chair: McQuesten Legal and Community Services, Michael Ollier; Brant County Community Legal Clinic, Jay Sengupta; and United Church of Canada, Vaughn Stewart. Welcome to our committee. We're grateful for your presence here this afternoon.

Mr Mike Ollier: My name is Mike Ollier. I'm the executive director of the community legal clinic in the east end of Hamilton, McQuesten Legal and Community Services. To my immediate left is Mr Vaughn Stewart from the United Church. We're sharing our time with the United Church and also with Brant County legal services. Jay Sengupta, a staff lawyer with that clinic, will have some remarks as well.

I understand you have received the written material from Brant county and also from the United Church. McQuesten was part of a joint effort with other Hamilton legal clinics that provided a written submission as well.

The first thing I'd like to get across to you in the brief time I'll have this afternoon is what an eye-opening experience it's been for me personally to be the director of the legal clinic. Before I got this job I'd never met anybody on welfare and it was an abstract problem. But since I've been doing this work, I have encountered real-life examples and it has indeed opened my eyes. I know that for many of the people around this committee table this may be the first time you're beginning to see the human face of what has perhaps been only a theoretical problem for you. I would just like to caution you, before you make decisions, to try to have a better idea in your mind about who the people are.

It's perhaps apropos that I'm addressing you here, where Canada meets the United States, and I see the Canadian and American flags standing side by side. I've heard horrible things about social assistance in the United States, where people can actually be cut off after a fixed period of time no matter what their circumstances are. It gives me a great deal of concern that we may be heading in that direction. I know this legislation is a far cry from that, but I'm afraid it is heading in that direction.

Generally, the legislation I've seen seems to attempt to address a problem that affects a fraction of the recipients and has that as its focus, whether it be concern about fraud or recovery of overpayments, which is something I turned my mind to in preparation for today. The fact of the matter

is that the overwhelming majority, well into 90% — I understand the latest figure, the latest shot in the dark regarding fraud that I've seen is about 3% — about 97% of the people are not going to be a concern for you, but they are all going to be affected by the measures you're planning to pass.

I think the challenge you face is balancing the goals that you've set against your obligation to provide this social service. It is, after all, social assistance and we have to determine what is it about the proposal that fulfils that obligation to provide assistance. After all, everyone that we're talking about is a citizen, is a resident of Ontario, and they have a right to be treated equally under the law with respect to their dignity as human beings, but also there is a legal obligation that you must fulfil. I'm sure none of you around this table has any intention of violating that, but I encourage you to look at the bill to see whether or not this may in fact be happening.

Take for example the requirement of, I think it's called, biometric imaging at the present time, which I'm afraid is understood to be fingerprinting. We probably will in decades to come have a way of recording people's image very close to this, but the perception will still remain at this time that it is singling out this part of our population for special treatment and special scrutiny. The fact of the matter is that the people I see coming into my clinic are going to have to answer the suspicions of their fellow Ontarians that, "These people must be capable of fraud because, after all, they're being required to be fingerprinted or undergo some such treatment."

The concerns I specifically addressed were income verification. Recently of course we've had what's known as enhanced verification. It's a legitimate goal, isn't it, which is to identify, to make sure that you're going to be paying the right benefit to the right person. I don't think anyone would argue with that goal. But again, I think the methods used have to be measured in terms of what their impact is going to be across the board. We spend a lot more time than perhaps we should, being funded by the province, assisting people and explaining why it is that they don't have a birth certificate and why it is that they can't get their social insurance number out of their wallet. It's been misplaced or whatever.

I think the verification requirements betray an assumption about people that needs to be tested. The assumption is that people walk around and, like a lot of people in this room, they probably carry their wallets and they have all their identification, and it's a reasonable assumption that they should be able to produce that in order to identify themselves. But the actual reality is that for a good chunk of the people we're dealing with, that simply is not the case.

The bill as it's currently drafted, as I understand it, requires the administrator, the delivery agent, to have that information before they can make a person eligible to receive a benefit. I know that's going to cause a great deal of hardship, which I firmly believe is unintended. I don't believe you intend to have people who, through no fault of their own, cannot lay their hands on the document and will

go hungry and without shelter until such time as they can get that document.

Of course there's also the question of money. As anyone who has ever ordered a document has found out, it's difficult to get these things without money.

I'll just make one more comment while I have your attention. I know my friends are eager to make a presentation.

The other point I wanted to make out of the submission that we've made is in regard to the notion of recovering assistance that's been paid already. We in our clinic certainly deal with overpayments, where people have been told, "You've been paid more assistance than you're entitled to receive." Of course, if that's demonstrated, then they've got to pay that back. The difficulty always is, how can they pay that back when they're being paid an allowance which is a bare minimum for human needs? We've heard from people who are actually recipients here who say they don't eat one day a week or whatever in order to get through. Deducting money for overpayments is a hardship which recipients currently undergo.

1510

At present, this bill seems to want to make those deductions easier for other government debts, for example, and even for such compelling reasons as child support. I think everyone around the table agrees that child support should be honoured; however, we must also recognize that there are situations where that cannot be done without affecting the basic ability of a person to feed themselves.

A single individual on welfare right now gets \$520 a month. That's not really a great deal when you consider that a one-bedroom apartment or even a rooming-house is going to cost at least \$300 or \$400. So the assumption that people can take these deductions and still survive has to be tested as well before you can go any further.

The other point I would like to make is that I question the assumption that people who are receiving social assistance are likely to be in a position in the near future to repay that assistance, the assumption again being that people will be able to get jobs. I pray that they do and I pray that they're good enough that they can repay social assistance, but the actual reality, I think, is quite different. To legislate that as a requirement is actually going to be counterproductive because it's going to raise the bar for looking for work and what can actually be affordable to meet all your needs and also repay social assistance.

Thank you very much for your attention. If there's some time for questions, I'd be happy to try to answer them.

Mr Vaughn Stewart: Due to time constraints, I will only highlight our brief from the Hamilton Conference of the United Church of Canada.

In 1986 the United Church of Canada stated before the Social Assistance Review Committee of the province of Ontario that the economic system is out of control and a fair distribution of wealth is not happening. The system is not delivering the goods, especially to the poor and the marginalized.

This year they stated, "Bill 142 is such a dramatic, fundamental change to our practice of social assistance that it is clear that its proposed implications go beyond the bounds of the economy of grace. It is not a document which offers care for the needy or the marginalized. It is inconsistent with the tradition of faith. It is immoral."

The recent cutbacks in assistance and the very repressive way the social welfare program is administered by this government are a slap in the face to Christians and the Christian principles of love, care and compassion on which this country is founded. The way it punishes and blames the poor for being poor is also an insult to the people of most of the other world religions who hold those same basic principles — love, care and compassion — to be a part of their faith.

This government's policies towards the poor and the legislation contained in Bill 142 would indicate that they are using those least able to protect themselves as scapegoats for their economic problems. We have often seen the horrible human, social and spiritual cost of this type of scapegoating of other groups around the world during this century. Have we learned nothing from history?

A person on basic welfare receives \$520 per month. If they spend just \$400 on shelter, which is about the least a person can spend for any kind of sustainable housing, that leaves them with \$120. To receive that money, the government demands that the recipient do about 50 job searches a month, which costs at least \$50 a month if the client walks to most of the contacts. That leaves \$70 a month.

In order to do a decent job search, a person needs a telephone for prospective employers or temporary agencies to call them for jobs. Phones are also needed for personal safety, to contact fire, police, doctor and ambulance. The basic monthly cost of a phone is about \$25, leaving the recipient with \$45. Two loads of laundry a month for \$10 leaves them with just \$35 a month for food. Of course, that means that they can't do dishes, brush their teeth, buy clothes, buy toilet paper or buy feminine hygiene products if they are women. If they have children living away from them, it leaves no money to be in contact with their children. Just imagine the horrible blow to the self-esteem and the terrible physical, emotional and spiritual cost to the thousands of people and their families living in this situation.

Furthermore, if a person loses their job for almost any reason other than layoffs, they can be ineligible for any kind of government support for at least three months. If they can't get another job or live with family or friends, then their only choices are to be homeless or to become criminals to survive. Therefore, government policy not only condones homelessness and crime, but actually encourages homelessness and crime. This policy also forces people to stay in possibly abusive and unsafe jobs out of fear of facing the government's alternative.

Current government deficits are due not to overspending on the poor or other social programs but to a lack of revenue. There are many things the government could

do to create long-term positive change. We would like to suggest two.

First, in conjunction with the federal government, encourage companies to reduce the workweek to 30 to 32 hours for employees, maintaining the pay and benefits of the 40-hour week. Experience has shown that with the reduced workweek, jobs are increased; employee sickness, injury and downtime are almost eliminated; productivity is increased; quality is increased; waste is decreased; prices can be decreased; customers are happier; profits are increased substantially; and workers can spend more quality time with their families or in creative, educational or voluntary pursuits.

Second, since jobs will continue to be eliminated by technology and unemployment will continue to increase, we would also suggest a guaranteed annual income to replace the social service network. Since 1972 the United Church of Canada has advocated a policy of guaranteed annual income as a method of ensuring economic security for all persons in a more equitable yet less expensive and less complicated way than the current government policy provides.

Money almost never trickles down from the rich to the poor but almost always flows up. Those on guaranteed annual income would spend almost all their money on the necessities of life. This would increase demand, increase profits, increase jobs, decrease unemployment and put more money into circulation. The cost of the program could be covered by decreased unemployment, fewer administrative costs and more creative taxation systems, such as a tax on all bank transactions.

These and other positive changes, such as the increased support of education, health, the environment and culture, would create a healthier and more moral and ethical economy, a healthier environment and a more just society for all. Government is elected to represent all levels of society, not just the special interests of the greedy. Since our Canadian society has supposedly been built on the basic Judaeo-Christian principles of love, care and compassion for all and since most other religions encourage those same principles, it is time that we demand no less of the governments that represent us. Thank you.

Ms. Jay Sengupta: I would like to begin by endorsing the brief presented to this committee by the Steering Committee on Social Assistance. That brief contains a detailed analysis of Bill 142 and we urge the committee to consider the recommendations that are contained in that brief.

As the time I have today is also limited, I would like to focus on one theme, that of accountability. Both the Ontario Works Act and the Ontario Disability Support Program Act have as one of several goals stated in the legislation that of being "accountable to the taxpayers of Ontario." The focus on taxpayers is, in our opinion, too restrictive. We believe that accountability to all the citizens of this province and, most particularly, to the users of the social assistance system who are directly affected by this bill is a more laudable goal and urge that

the legislation be amended to include a recognition of that broader sense of accountability.

Accountability comes about in many ways. At the very least, it must include a true consultation with those who use the services and on whose lives this bill would have the greatest impact. We have grave concerns that large portions of the new system of social assistance delivery have been left blank and are to be filled in later by regulations. These regulations have not been released, will not be subject to meaningful public consultation or input, and can be changed without any consultation. A major reform of a system which provides basic necessities of life to a large segment of the population of this province should be subject to real scrutiny and public input, and that is not possible under Bill 142 as drafted. This does not advance the cause of accountability.

1520

In practice, one of the ways in which a system can be held accountable is through a review of decisions made by those entrusted to implement rules and regulations. Citizens need to know that their public service is operating fairly, efficiently and in accordance with the purpose and spirit of the law. The right to challenge decisions which have an adverse impact on a person is crucial in this regard. Again, the direction taken in this bill runs counter to the principle of accountability.

For example, certain decisions which have a profound impact on the lives of people cannot be challenged in any way, either through an internal review or through an appeal. These decisions include a decision to appoint a trustee to whom benefits for a person could be paid, or a decision to pay all or part of a person's assistance to a third party such as a landlord. The proposed legislation does not require the consent of the person concerned, and no right to challenge or hold the administrator accountable exists under this bill.

The Chair: Excuse me, you have less than a minute left. I just wanted to alert you.

Ms Sengupta: In that case, I will say that we have other concerns that deal with the independence and impartiality of the tribunal. We also have a final concern that I'd like to highlight, which is that there is no mechanism in place to evaluate the success or failure of Ontario Works and the workfare aspects of that bill.

I'll stop there. I thank you for the opportunity to appear before you and I'll leave it at that.

The Chair: Frankly, we thank you for being here.

Mrs Pupatello: May I ask for unanimous consent for a couple of minutes per caucus, please?

Mr Klees: No.

Mrs Pupatello: The next slot is available, so we won't really delay the day.

The Chair: There does not appear to be unanimous consent.

Mr Kormos: Mr Klees, are you sure you don't want to give unanimous consent?

Mr Klees: Not after the way Mrs Pupatello has conducted herself every time I have agreed.

The Chair: Mr Kormos, Mr Klees.

I want to thank you very much. I apologize for the confusion here this afternoon, but thank you very much for your intervention.

May I ask the Schizophrenia Society of Ontario, Selina Volpatti, to come forward. As Ms Volpatti makes her way, there's an item —

Interjections.

The Chair: Excuse me, members. Come to order, please.

Mr Klees: If Mrs Pupatello would have conducted herself honourably every other time when I granted consent, I wouldn't mind.

Mrs Pupatello: Don't talk about my conduct. I am not answerable to you.

Mr Klees: I am not about to subject this committee to the kind of rhetoric and misinformation —

The Chair: Members, come to order, please.

Mr Klees: I don't have to put up with your misrepresentations around this table.

Mrs Pupatello: Would you send him for a time-out, please?

The Chair: Mr Klees, Mrs Pupatello. While we settle down a bit, I'd like to bring an item to the committee for discussion. We've had a request from the Hamilton Mountain Legal and Community Services. Essentially the request is this —

Interjections.

The Chair: I would really like the attention of members to this, because this is important. Mrs Pupatello and Mr Klees, this is an important request from the Hamilton Mountain Legal and Community Services. They had applied to appear before the committee to make a presentation. They were not able to get a slot. They are advising me in their letter dated October 22 that they are having their own community hearings in Hamilton on the 24th.

The significance of this is that we have a deadline of October 23 for submission to the committee. They've asked, in view of their hearings on the 24th where they hope to get a great deal of community input, that we extend the deadline for submissions to October 27. That's a matter that requires the consent of this committee and it's really up to the individual members to decide. Is there anyone contrary to the request of the Hamilton Mountain Legal and Community Services?

Mr Klees: I'd like to speak to that. I have no objection, on the understanding that this will in no way interfere with the schedule we've set out for the committee to deal with clause-by-clause.

Mrs Pupatello: We have no formal information regarding the schedule for clause-by-clause, only hearsay that it may be the 28th. Has there been an official notice put out by the committee?

Clerk of the Committee (Ms Tonia Grannum): The amendments have to be in to the committee by 5 pm on the 28th. It seems as though clause-by-clause has been scheduled for November 3 and 4.

Mrs Pupatello: All day?

Clerk of the Committee: Both days.

Mrs Pupatello: We've not been officially notified.

Clerk of the Committee: The committee can make a decision. We have two days during the recess for clause-by-clause. It seems as though we have been slotted in for November 3 and 4.

The Chair: Essentially that means that were we to entertain this request, the committee would have time to file its amendments, which would be one day after the request that the Hamilton Mountain Legal and Community Services makes. To answer your question, Mr Klees, it does not appear to affect our clause-by-clause deliberations.

Do we have consensus that we extend the time for submissions until the 27th?

Mr Kormos: Of course.

The Chair: Thank you very much. I appreciate the committee's indulgence on this.

SCHIZOPHRENIA SOCIETY OF ONTARIO

The Chair: I appreciate your indulgence, Ms Volpatti, waiting for that. We're trying to give as many people as possible the opportunity to make their views known, either personally or in other ways. I'm sure you appreciate that.

Ms Selina Volpatti: Thank you very much. I must say I was beginning to feel right at home in this room. Being a member of city council here, I'm familiar with statements being made around the table all at once.

I want to thank the committee very much for the opportunity of being able to make our presentation. I also want to welcome you all to our fair city and say that it's a real treat not to have to travel, and to have you all here.

The Schizophrenia Society of Ontario, of which I am the provincial president, was founded in 1979 as the Ontario Friends of Schizophrenics. It's a non-profit, family-based organization. We have about 40 chapters across the province and almost 10,000 members. Our representation doesn't stop there, because we really do speak for all those people who are on the streets, in our jails, everywhere but getting treatment and getting care. We estimate that there are almost 20,000 people across this province who have schizophrenia who have no contact with the mental health system and are out there having no place to live and are not being cared for.

Almost two thirds of people with schizophrenia are cared for by their family. I want to make the general statement that families are well aware of their obligations to their sick family members. We feel we have some rights too, but foremost in our minds, always, are our obligations to take care of people who are desperately sick.

Schizophrenia is a neurobiological brain disorder. Simply stated, it is not a label, it's a diagnosis. The symptoms of schizophrenia include audio and visual hallucinations: hearing voices, seeing things that aren't there. It includes paranoia and a lack of insight into the fact that they're sick at all. There are equally painful negative symptoms, such as the inability to interact with others, usually because of paranoia, confusion and apathy. When the brain is affected, there is very little control over

your environment or over what happens to you, and that's what happens to our people.

You've heard from a lot of groups, but I'm here mainly to give you some insight about special problems that people with schizophrenia face. One of those problems is due mainly to the lack of insight. Generally, people with schizophrenia have no idea that they are sick at all. If you ask them, they will deny that they are sick. If you ask them if they want to work, they will be only too happy to say yes, that there's nothing wrong with them. The sad truth is, though, they might be able to work for an hour or two and sometimes even a day or two, but they can't work for long periods of time. We are very much afraid, as an organization, that they will be asked to work, say they will work, and then be unable to carry out any duties that they are given.

1530

The lack of insight means that many, many people with schizophrenia refuse to apply for disability in the first place. There's nothing wrong with them. They're not disabled. So they will generally take general welfare assistance. We're in a really bad situation when we have people who don't think they're ill put under general welfare. They're told to go to work, which they can't do, and if they're cut off welfare, that means they have absolutely no means of support, particularly if their family are in the situation that they've had to put them out of the house. Very sadly — very sadly, ladies and gentlemen — many times people with schizophrenia cannot live at home; they're too dangerous.

The other thing I would like to mention to you is the gravity of the symptoms of schizophrenia. This disease strikes in young adulthood. It's estimated that one in 100 people will suffer from schizophrenia in their lifetime. It's not a visible illness most of the time in the way that other diseases or disabilities are. You can look at a person who has schizophrenia and he may look physically very, very well and very capable, but the fact is that person is critically ill and unable to work.

I come to this association with a personal interest. My son has schizophrenia, and if he were to walk into this room today, you would say to yourself, "Why isn't this person doing something constructive?" He is very ill. He lived on the streets of Toronto, he lived on the streets of Niagara Falls and of Hamilton for three years with nobody to look after him, with very little money, thrown out of hostels and —

Interruption.

The Chair: I'd like to say to the audience, please try and be respectful of the people who are speaking and don't curtail their time.

Ms Volpatti: Thank you. We're very afraid that the proposed legislation may cut or deny benefits to people who really are very, very vulnerable. That's a much overused word, "vulnerable," but I want to tell you that people who have schizophrenia are right at the top of the pile of vulnerability. They are the most needy people you will ever encounter.

The other thing I want to bring to your attention, and I understand this is not just a subject for this committee, is that schizophrenia is a very complex disease. For families, Bill 142 cannot be considered alone. The Ministry of Community and Social Services is dealing with one piece of a very big picture, all of which is changing rapidly for families across the province and for people with schizophrenia. We have to deal with many other pieces of legislation and ministries on a regular basis, and the rules are changing all at once.

Subsidized housing, for example, is crucial to our people. While there are many families caring for their ill relatives, as I said before, very often we have to ask our children, our spouses, our brothers and sisters to leave our homes. It's impossible for us to take care of them. It's like running a mini mental institution. Because of the changes in housing, many people will not have the opportunity to find adequate housing, and if their financial aid is cut, they won't find housing of any kind.

Services for people with schizophrenia are generally first accessed through the Ministry of Health, but there are many other ministries that provide fragments of care. Families have to deal with the whole person. This means accessing a whole range of services and each of these services has their own set of rules. The end result of the whole muddle of red tape is that persons who are severely disabled with schizophrenia do not get the services they require and families don't get the assistance they require to uphold their end of the obligation.

The current situation is becoming more and more critical as tertiary care psychiatric beds are closed. The regional municipality of Hamilton-Wentworth I noticed stated their real fear about the closing of Hamilton Psychiatric Hospital. We have that very real fear as well. The Health Services Restructuring Commission is recommending further deinstitutionalization of our people. Lack of tertiary care beds means that persons with schizophrenia who have not yet been diagnosed will never get the opportunity for diagnosis and treatment. Because they don't ever get a diagnosis, that means they'll never be eligible for disability. So they just continue to wander the streets; we step over them.

Another horrible fear for our association is that as we continue to step over people in the streets, as we continue to hear the horrible stories about what happens to people with schizophrenia who are not taken care of, society becomes desensitized to it. In our society every dog has a home. Unfortunately for us as families not every person has a home. There's something very wrong with that whole equation.

I want to go into the subject of addictions because it's crucial to us and to the people I represent. Very frequently the symptoms of schizophrenia are confused with those of substance abuse. This is a matter any medical person will tell you. It takes time to make a reliable diagnosis of whether the base problem is substance abuse or schizophrenia. It takes a couple of weeks. Under the current legislation, our people can only be held for 72 hours. That means there goes the opportunity for getting

diagnosis or for starting treatment that's going to mean anything.

If social assistance is cut off for people with addictions, that really means something to people with schizophrenia because as beds are closed and as there's very little opportunity for diagnosis, our people will turn more and more to illicit substances and alcohol to try to control their symptoms. Almost 60% of people with schizophrenia have substance abuse problems now in Canada and Ontario. That number will increase, because if they don't get medications which control their symptoms, they will use any substance that's out there to try to control them. It's very easy for a worker to look at a person and say, "This is an addict," without realizing that the real cause of the problem is schizophrenia.

That means you're going to make a whole other category of throwaway people. I'm not accusing this government of making the category; the category is there. Our throwaway people are already on the streets. I cannot tell you, as I go around the province visiting our 40 chapters, how many times I hear people tell me stories like: "My daughter's been living in a car for two years. She's 45 years old. I'm 80. I don't know if she can survive another winter."

A woman who happened to be from Niagara Falls called me and said: "I went to Toronto on the train. I got off the train at Union Station. I walked up the ramp and somebody asked me for money. I was going to walk by and then I looked at the person and said, 'Oh, my God, that's my brother.' Hadn't seen him for 10 years. Didn't know where he was." Now she knows where he is, she knows that he's begging on the streets for money, she knows that he's critically ill and she still can't get any help for him. The general welfare benefit that he receives is the only way he has of keeping body and soul together. Very often he doesn't even get that unless he has an address where the cheque can be sent.

The closing of beds: Legislation which will allow our people the right to be treated even when they don't think they're sick, Bill 111, is now before the House.

We need adequate housing for our people. There are many, many pieces to this puzzle. As I say, and as I said before, it's not within the realm of this committee to fix everything that's wrong, and we know that, but we ask you to consider in your legislation that as you tighten up the rules, as you make it impossible for addicts, for example, to be on disability and as you tighten up the other rules in the bill, you are throwing more people into our streets who will not be cared for and you are throwing families like mine into total and complete disarray.

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I cannot emphasize enough to you how much our people who have schizophrenia are suffering out there. It's a painful illness and I want you to imagine for a moment what it must feel like to be 20 years old and know that you're losing your mind.

In conclusion, the Schizophrenia Society of Ontario asks the committee to remember our population. We need legislation that guarantees that sick and vulnerable people

will continue to receive desperately needed benefits. This legislation seems designed to make many people with schizophrenia, or more people with schizophrenia, into throwaway people.

We appreciate the sections on the treatment of assets. There are many positive aspects to this bill and the treatment of assets certainly is one, but of course I'm not here to tell you what's right about the bill. In my brief period of time I'd like to tell you what we think are the things you should watch for as you're amending this bill.

Waiting for the interpretation and regulations from Bill 142 means another period of uncertainty for Ontario families, added to the other uncertainties which are the consequences of, among other things, too much rapid change. The Schizophrenia Society of Ontario emphasizes that legislation for the severely disabled must consider the needs of the entire person. Bill 142 is a critical piece because it provides the financial basis on which they exist. Thank you.

The Chair: Thank you, Ms Volpatti. On behalf of the committee, accept our thanks for your very moving presentation here today on an area that frankly we hadn't heard very much about during the hearings. We really appreciate your coming.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair: I call on Jim Tait, please. Welcome.

Mr Jim Tait: Welcome to you. My name is Jim Tait. I'm a staff representative from OPSEU. How do you do?

The Chair: You want to shake our hands. Thank you very much.

Mr Tait: I've presented a brief to the clerk and I'm going to try and be as brief as I can, because I know you're busy.

The Chair: You have 20 minutes for your presentation.

Mr Tait: Good. Good afternoon. My name is Jim Tait. I'm a staff representative from OPSEU. I'm making this presentation to the committee because front-line welfare workers, OPSEU members, have been intimidated by their employer with threats should they attempt to appear before this committee. Employees had been informed that they would be severely disciplined if they did. This intimidation's a clear denial of these members' democratic rights. Therefore, I appear before this committee to ensure this attempted intimidation and subsequent threats are not successful and that vital information about this bill gets to the MPPs and to the public.

To those of you who are not from Niagara, welcome. I'm very pleased to have the opportunity to speak with your committee. Although some of the information I will present is technical, it is vital that your committee and the public be aware of what Bill 142 will mean to Ontario.

First of all, the real nuts and bolts of this legislation will be contained in regulations that will be produced months after the legislation is passed. By that time, input

from the public will not be possible. This is cause for real concern.

Along these lines, I wish to discuss the lack of technical support available to bring the general welfare program and the family benefits program together under Ontario Works. Under the current system, the family benefits program, which is operated by the province, is made up of 80 offices across Ontario. They are linked together by a computer system called CIMS. This computer program allows family benefits workers to access records on all clients on the system. It also allows benefits to be directly deposited in the bank accounts of clients.

The general welfare program operated by regional governments works quite differently. Regional welfare offices operate with a wide variety of different standalone computer systems. There is no sharing of information and they do not directly deposit benefits in bank accounts. Since general welfare offices are not able to track clients across the province, there's a greater chance of fraud in the system as clients can collect benefits in a number of offices without being detected.

Bill 142 will take these two operations and combine them under the Ontario Works program, which will be operated by regional government. This process requires a new computer system which will link all the Ontario Works offices together. This system does not exist. The computer program for Ontario Works that has been set up in the 20 test sites does not link them together, nor allow for direct deposit of cheques.

There is no sharing of information. The CIMS system family benefits uses is not capable of taking on the entire welfare population of Ontario, as it is at its limit now. The Harris government, which the majority of this committee represents, is in such a rush to fully implement the Ontario Works program and eliminate the family benefits program that they're willing to open the welfare system to a record amount of fraud.

This situation has been made worse by changes made in the way general welfare will operate Ontario Works. Each of the 20 test sites for Ontario Works had to file a work plan which had to be approved by the province. In the plan approved and in operation in the Niagara region today, Ontario Works staff no longer visit clients at their homes to confirm they actually live there. Interviews now take place in the office. This is the case with the majority of the Ontario Works programs that have been approved. You could literally get in a car and drive from Niagara Falls to Hamilton, on to London and finish up in Windsor, collecting welfare cheques all the way.

Since they came to office, the Tories have made much political hay about welfare fraud. They have no compunction in using figures which are totally inaccurate. Three weeks ago, Tory MPP Frank Klees made the ridiculous claim on a TVOntario program that fraud was at about 50%, even though every single report has pegged fraud at about 3%.

Mr Klees: That's not what I said.

Mr Tait: This is my time, sir, not yours.
Interjection.

Mr Tait: If you think I'm not being truthful, then you use the appropriate manner to deal with it.

Minister Janet Ecker has vowed to put an end to fraud in the welfare system. Obviously this is just talk aimed at scoring political points and has nothing to do with reality. The reality is that if the government does not take the time to put in a complete computer system, Ontario may become the fraud capital of Canada.

We have seen the disastrous consequences of the Harris government moving too quickly in shutting down an existing system when they changed over the family support plan. This would be a disaster at a much greater level.

Another matter of great concern to the clients is that this change will begin at the onset of winter. The effects on families with children could be devastating, to say the least.

The provincial government currently has Andersen Consulting under contract to help improve the delivery of welfare in Ontario. Andersen provided a computer system recently for the New Brunswick provincial government. It took two years to put it in place, in a much smaller province, because that's how complicated this type of system is.

The province should make regional governments aware of the cost of this system as soon as possible, since under provincial downloading regional governments will be shouldering half the cost of Ontario Works.

Turning to regional delivery: The second issue I would like to discuss is the decision to deliver social services at a regional level. Everyone from Mike Harris to polling companies agreed that workfare was the most important issue in the 1995 election campaign and a key reason the Tories were elected. Why, then, is the Harris government turning the implementation of their most important campaign promise over to another level of government?

No other province in Canada or state in the United States delivers welfare in a single-tier system at the regional level. The Harris government has never explained why they are right and everyone else is wrong.

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Homeowners will also want to know why their property taxes pay for 20% of welfare benefits and 50% of the administration of the program.

Workfare is a lie, turning to that question. In the Common Sense Revolution, or the CSR as I hear it referred to on the floor of the Legislature quite often, the Tories promised the people of Ontario that everyone on welfare would have to work in order to collect a cheque. This was simply not possible. In the spring of this year, Minister Janet Ecker delivered the Ontario Works program, which was very different from what had been promised in the 1995 campaign.

A person receiving welfare has four options under the program: They can make an active job search, keeping records of where they applied; they can upgrade their education to grade 12; they can do volunteer work; they can also enter the community work program most people would identify as workfare.

It is important that you understand that under the current general welfare system, clients are already required to present a record of their job search. They can attend high school under the current system and perform volunteer work. Ontario Works is business as usual.

There are a number of problems that will become even worse when single parents and people aged 60 to 64 are forced to enter the Ontario Works program. First of all, the province has not put any extra money into adult education, so the limited spots fill up quickly and people are left out. Also, there is not a fully developed system of day care available for parents who are in the program. This will make it impossible for some parents to participate.

The workfare option has been a failure on two levels. First of all, each of the Ontario Works sites had to have a work plan approved by the province. The plan detailed how the system would operate, as well as the projected results. Since we are in the Niagara region, which is one of the operating Ontario Works sites, I will use their plan to make my point. The Niagara plan projects that by the end of 1998, only 400 of the 11,000 people eligible for Ontario Works will be involved in the workfare part of the program. That works out to about 3.6% of the population. This projection does not differ from any of the other work plans already approved by the provincial government.

Second, we have also seen actual results at Ontario Works sites. For example, in Minister Janet Ecker's own riding, eight of the eligible 7,000 clients are in the workfare part of Ontario Works as of the end of August. If you were to visit an Ontario Works office, you would find that the vast majority of Ontario Works clients are simply continuing the job search they were doing before Ontario Works came along. Some clients are in school upgrading, but many were turned away due to lack of space.

The main difference is that the Ontario Works staff no longer visit clients in their home. With the great amount of money spent on computers and new offices, Ontario Works is sure to be more expensive than the disastrous Jobs Ontario program brought in by the previous government, and will produce even less.

Lack of results: The Harris government has become frustrated by the lack of results from Ontario Works. They only have themselves to blame. As many social policy experts have pointed out, workfare doesn't work. It doesn't move people into meaningful long-term jobs which help them contribute to the community.

It's no wonder that the two leading megacity mayoral candidates, Mel Lastman and Barbara Hall, have gone on record saying they will not implement the Ontario Works program in Toronto. Since Toronto has 40% of the welfare cases in Ontario, this would leave Ontario Works out of business in our biggest city.

I say again, with all this resistance, why is the Harris government determined to deliver Ontario Works at the municipal level? Why not run the program directly? I encourage the committee to consider the most efficient way to deliver welfare in this province, and that's a

single-tier, provincially funded, provincially administered system.

This lack of control of Ontario Works by the province would not have happened if Mike Harris and Frank Klees had decided that the province should deliver Ontario Works. The Harris government has 2,000 people who deliver family benefits assistance to more than 250,000 households in Ontario, who are direct employees of the provincial government and who should be the ones to deliver the program. This would eliminate the resistance to Ontario Works at the municipal level.

In closing, I urge the Harris government to take one more look at who should deliver social services in Ontario. I also challenge the opposition parties to do a better job of looking at Bill 142 and the issues I have brought forward today. These may not be glamorous and high-profile issues; however, they will affect the delivery of social services and whether our tax dollars go to the people who really need them. The opposition must hold the Harris government responsible for the difference between what was promised in the Common Sense Revolution and what has been delivered with Ontario Works. Both opposition parties have failed to make this point.

It is my hope there is still time to make changes to Bill 142 before it is passed into law. We must also be prepared to deal with the implementation of this legislation through the regulations that will follow months from now.

Thank you for the opportunity to speak with your committee on behalf of the clients and workers who are directly and indirectly involved in this extremely crucial area of the social services of Ontario.

The Chair: We have a couple of minutes for questioning per party. We begin with the official opposition.

Mrs Papatello: I'll try to do a better job of asking my questions than you obviously think I've done so far. Thanks very much. We have made all these same points, Peter and I as critics, on this bill in the House and to media and anyone who will listen. Our difficulty, as you've noted in your presentation, is the public's willingness to hear this issue today, and the enormous pressure that the public faces with so many areas under significant change, and not all good change, going on at the same time.

I find your presentation very direct, very clear and I applaud you for taking the time and obviously the courage to come down. I'm not aware there's anything official in memo form as such, where there have actually been local employees threatened, as you've mentioned. I understand you are at the provincial level. That's a significant charge and it's not the first time I've heard it, but it's quite difficult to prove.

Mr Taït: It's not difficult to prove at all, ma'am, because all civil servants have to take an oath of loyalty and confidentiality to the government. The provincial government of Ontario, as have other provincial governments, has taken the position that no civil servant should speak out against government policy. Quite simply, when you say that to workers in that kind of situation — I've known an awful lot of them for 30 years. A lot of them would

dearly love to come before committees and tell you exactly what goes on out there, but they know the consequences of their actions.

The government is not looking at the problem the right way. They're looking at it from the bottom up. They should be looking at it from the top down. How do you know that you're being told the truth by the managers? How do you know the deputy minister is not giving you some bureaucratic mumble-jumble? You just don't know. You have to trust them. But the front-line workers are telling you here today that if you implement the system that you're talking about, there will be general chaos. God help you if one child suffers because of your actions. God help you.

Mr Kormos: Thank you kindly, Mr Tait. Yes, I think your points are valid. Although we heard from Ms Pupatello, perhaps we haven't emphasized them sufficiently. You certainly have. You obviously struck a nerve with Mr Klees.

Mr Tait: Too bad.

Mr Kormos: He yelped and squealed and squirmed and twisted. He undoubtedly would welcome my inviting you to flesh that out. He has such disdain for recipients of social assistance and the poor, that fraud is prevalent to the tune of 50% — that was a TVO program?

Mr Tait: Yes. That's what I believe.

Mr Kormos: You're confident in that regard. You see, we've heard evidence about 1%, 3%, maybe 5%. We also heard that income tax fraud is likely such that at the level of 10% to 30% of people filing income tax returns are committing fraud, yet Mike Harris shrugged and said it's human nature.

Mr Tait: My reply to that would be, God forbid anybody would stand up and reveal the truth about the deferred income taxes that companies and corporations own in this country, and governments continue to let them defer them, and at the same time high-priced executives get bonuses at the end of the year.

Mr Kormos: Yes sir, and deputy ministers.

Mr Klees: For the record, I did not say, and never have said, that it's my opinion. I did say that there were studies, and I quote from a book entitled *Welfare — No Fair* by Enrico Sabatini, who you probably know very well.

Mr Tait: Wrong.

Mr Klees: In that book, which is what I was quoting at the time, it says, "Estimates on the incidence of fraud vary from 1% or less to 50% or more." The same publication goes on to quote the *Toronto Sun*, January 26, 1994, as saying, "The head of Ontario's public service employees union," an organization you may be familiar with, "which represents the welfare workers, has insisted, 'The fraud rate is way higher than the ministry is willing to admit. It's at least 20% and may be as high as 40%.'"

With regard to the comment about intimidation, you can certainly get substantiation from a number of employees of this government who heard me say to them that I encourage them to come forward and give us their

input on Bill 142. In meetings across the province, I invited that kind of input. I would suggest to you, sir —

Mr Tait: Could I ask you a question?

1600

Mr Klees: No, you can't. It's my time. You've had yours.

I suggest to you that before you come to a public hearing you get your facts straight. This government is more than willing to understand and to listen to input, but not from people who are prepared to twist the facts, to misrepresent the facts and not to take a constructive view.

Mr Kormos: You're the one who wants to say that 50% of claims are fraudulent.

The Chair: Enough, Mr Kormos. Mr Tait?

Mr Tait: First of all, speaking —

Mr Klees: Madam Chair, I am not finished.

The Chair: Yes, you are finished. In fact, Mr Klees, your two minutes are up.

Mr Tait: Is he finished or not? He's taking up my time. Do I have some time left?

The Chair: Mr Tait, I will give you a very brief time to respond, because we've exceeded your time.

Mr Tait: I will exceed, as you won't, being the experts, the spin doctors you are. I don't know — what's the name, Ringo Sabatini? The only Ringo I know played with the Beatles many years ago. I don't know anybody called Ringo. You should check out your facts before you come before a committee.

The Chair: Thank you very much, Mr Tait, for being here and making your presentation.

Mr Preston: On a point of order, Madam Chair: I understand that you want to allow people to continue, but it is not fair to other groups that have been here before to say to them, "Your time is up in one minute," and their time is up in one minute, but then you turn around and say to somebody, "I'll give you another minute to answer the question," when their time is quite, at your insistence — "Oh, no, your time is up, but I'll give you time."

The Chair: Mr Preston, I am the one who is looking at the clock. There were still a few seconds left, and Mr Tait responded. Thank you very much, and I appreciate the point you made, Mr Preston.

NIAGARA MENTAL HEALTH SURVIVORS NETWORK

The Chair: I ask the Niagara Mental Health Survivors Network, Angela Browne, to come forward. Thank you very much for being here. We appreciate your attendance this afternoon. You have 20 minutes for your presentation, and if there is any time, I'm sure there will be some questions.

Ms Angela Browne: Oh, yes, I'm sure. It sounds like you had a very positive discussion here while I was waiting to be heard.

Good afternoon, ladies and gentlemen of the standing committee. We are pleased to be given an opportunity to present before your committee on what amounts to the

most dramatic form of welfare restructuring we've had in this province since day one.

Because people with psychiatric disabilities remain the largest category of recipients on both family benefits and general welfare, it has been a major part of our network's focus in the past three or four years to discuss, strategize and design proposals for reform for the system to help meet our members' needs. In addition to this talk, we included the following three documents in your package, which you can read at your leisure: Definition of Disability (and Key Factors in the Determination Process), from November 1995; Our Response to Proposed Reforms to VRS and Employment Supports for People with Disabilities, which is from January 1997; and Summary of Concerns and Alternative Strategies re Bill 142, Social Assistance Reform Act, October 1997. Whatever I don't cover in this talk will probably be somewhere in the documents.

Being largely volunteer-driven gives our organization a critical perspective that may not be otherwise available if we were solely concerned about protecting the status quo or expanding existing programs, because many of our members tell us these existing programs don't work. We speak to reforms from our five years of research in our community about the needs of people with psychiatric disabilities when it comes to employment and income supports.

First, we want to congratulate the government on its recognition that people with disabilities often can and want to work. Through our reading of the bill and its background papers, we view the emphasis on putting people back to work as a strong point of this legislation. Our positive feelings about this section appear to be backed by a government commitment to increase funding from current levels of \$18 million to \$35 million for vocational rehab funding. We also support proposed provisions in the minister's announcements to fully support assistive devices for people with disabilities and to guarantee extended benefits to all children receiving benefits, regardless of where they are in the province.

Second, we want to affirm our support of the government's decision to automatically transfer people currently on the family benefits system to the new Ontario disability support program.

Third, we learned that the government intends to simplify the process for applying for and being assessed for benefits by taking the process out of the hands of doctors, welfare workers and other parties currently involved in the referral process. We like the idea of an independent adjudication model. This recognizes the fact that mental health applicants may have stopped seeing their psychiatrist or be afraid to enter the system to apply for benefits. This will allow other knowledgeable professionals with whom people work on a more regular basis to provide input into the process, which allows other aspects of the individual to be taken into account when determining disability.

However, upon examination of this act, our organization noted a number of red flags that have left us

concerned that many people who now qualify for assistance under FBA will no longer do so under the ODSPA. As we have pointed out in many forums before this one, the proposed definition of disability in the ODSPA is too restrictive to meet the needs of most people in our community. Although I respectfully acknowledge the minister's remarks made to the committee on September 29, 1997, to the effect that the definition will be amended to clarify that folks will only need to meet one or more areas of functioning — at work, community, personal care, all that stuff — there are other areas of the definition that remain vague and left to discretion.

In my personal experience as a legal advocate, the word "substantial" and the word "severe" may not necessarily be interpreted as being broadly distinct from one another, particularly when they apply to a functional definition. This is exactly what it is; it's a functional definition based on activities of daily living. Much of this is reflected in my experience of handling issues around the federal disability tax credit, where the interpretation of "marked restriction" is very narrow.

Please see our paper on the definition of disability and our recent comments on Bill 142 to note some of our proposed alternatives on some of the issues. Some of them you address, but on some you could probably make some amendments. In particular, we feel the factors associated with disability, in addition to factors directly arising from disability, need consideration, namely, stigma, the effects of treatments and long-term absences from the labour force as a result of disability. It does have an impact on people's employability.

Further to our comments on the definition of disability, we must also note that a narrow definition of disability that can be used in such an act will serve as a barrier to re-enter the labour force, no matter how much money you want to pour into it, particularly if the automatic period is limited only to people who have been off benefits for a period of less than 12 months. People trying to work themselves off the system want to be assured that no matter how long they are off benefits, they can easily be reinstated in the event that another episode strikes even two or three years down the road.

Limiting the automatic, no-questions-asked reinstatement policy to less than 12 months after one has left the system to go to work will result in very few people making serious attempts to find full-time jobs, although some may try to work part-time. Not every person with a cyclical condition like a mood disorder or recurrent schizophrenia is going to have a relapse within 12 months if they return to work. In fact, I know one fellow who has manic-depression, bipolar, that goes every four years; then he can't work for a while. I don't think he would be able to stand having to reapply for disability time and time again, every time he goes into the system.

We would suggest that this limit be removed entirely, with reinstatement being automatic as long as the person verifies they still suffer from the same condition and they want to go back on; to show they have the same condition

that's stopping them. Either this, or extend this 12-month period to three to five years if a cap must be applied.

Another point we must raise is the relative silence on the part of this act in its impact on families, particularly where the man or woman in a marriage or common-law relationship is defined as a person with a disability and the other person is not and they are trying to work. The problem here is that the income and assets belonging to the working spouse are automatically counted against the level of benefits of the spouse who is a person with a disability. It is conceivable that the working spouse may find a job that pays him or her just enough money to work the couple off benefits, leaving the person with a disability entirely dependent on the working spouse for his or her support. This unfairly places the burden of support for the person with a disability on the working spouse, which can be very stressful on families, particularly if the job is only modestly paying and the person with a disability has high needs. We know of several cases where individuals broke off wedding engagements or families have split up over this issue, often leaving the person with a disability without any support at all outside of the FBA or ODSPA.

A typical case involves a recent example that has come to my attention in another part of Ontario. The fellow was on family benefits for psychiatric disability. His wife and his kid had \$1,400 a month. Suddenly his wife got a job that paid her enough to take him off family benefits but not enough to accumulate any savings or get any big-time rich earnings. She wasn't an MPP. She worked at this job for almost two years and got laid off. Her unemployment ran out and the family was forced to turn to welfare. This was shortly after the 21% cut was in place, so that family's income would significantly drop.

The man was told he had to reapply for disability benefits to prove he was a disabled person again, despite the fact that he never worked during any of the time his wife was employed. Even though this person qualified for disability before, this process can still take as long as six months to a year to get back on. Anyway, this lengthy period of time forced the family to rely on a lower income, with their rent alone taking over 75% of their cheque. The stress led to their eventual breakup.

The husband since reapplied for welfare as a single person at \$520 a month, and the wife applied for welfare as a single parent of one child and receives just over \$900 a month. If this man ever gets back on disability, he would be entitled to the full \$930 a month, which would then cost the government more than it would if the family never had to go to the welfare system to begin with, therefore leading to the stress that caused the split.

I can see this scenario repeated over and over again in this region. I know at least 15 couples who have gone through that in Niagara region alone. These are just people I know, and believe me, I don't know everybody in the Niagara region, let alone Ontario.

Add to this the costs of crisis care and possible re-hospitalization at upwards of \$650 a night as a result of

these kinds of life circumstances provoking an episode or even a suicide attempt on the part of many of the people going through these things.

This government keeps talking about the importance of families staying together, the importance of children being raised in two-parent families —

The Chair: Excuse me, please. I'd like you to remove the banners. There are no demonstrations allowed in the hall. Please, out of respect to the presenter, don't interrupt again.

Ms Browne: I get a two-minute extension, I imagine.

The Chair: I will certainly take into consideration what has happened.

There's another demonstration in the front that I would like to have removed, please.

Interruption.

The Chair: Ms Browne, we will recess for just a few minutes, if you don't mind.

The committee recessed from 1614 to 1625.

The Chair: Ladies and gentlemen, we are going back on the record. I would like to ask once more for the banner and the stuffed doll to be taken out, please, because they constitute a demonstration. I'll ask the clerk to do that. Thank you very much.

Mr Klees: Madam Chair, I would like to make a motion to adjourn.

The Chair: A motion to adjourn is not debatable, Mr Klees. I will have to put it to a vote.

Mrs Papatello: He doesn't have the floor to make a motion, Chair.

The Chair: I did recognize him, unfortunately, Mrs Papatello, or fortunately, depending on your point of view. All in favour of the motion to adjourn?

Interjection.

The Chair: There's no discussion on a motion to adjourn, Mrs Papatello.

Mrs Papatello: On a point of order, Madam Chair: I'd like to know who the official, voting members of the committee are today.

The Chair: That is a valid point of order. Who are the official members, clerk?

Clerk of the Committee: Mr Preston, Mr Doyle, Mr Parker, Mr Klees, Ms Papatello, Mr Kormos.

Mrs Papatello: Can I have a recorded vote, please?

The Chair: Very well. We've been asked for a recorded vote. All in favour of the motion to adjourn?

Ayes

Doyle, Klees, Parker, Preston.

Nays

Kormos, Papatello.

The Chair: I regret that we are adjourned.

The committee adjourned at 1627.

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Standing committee on social development

Social Assistance
Reform Act, 1997

Comité permanent des affaires sociales

Loi de 1997 sur la réforme
de l'aide sociale

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Monday 3 November 1997

Lundi 3 novembre 1997

*The committee met at 1003 in room 1.*SOCIAL ASSISTANCE
REFORM ACT, 1997LOI DE 1997 SUR LA RÉFORME
DE L'AIDE SOCIALE

Consideration of Bill 142, An Act to revise the law related to Social Assistance by enacting the Ontario Works Act and the Ontario Disability Support Program Act, by repealing the Family Benefits Act, the Vocational Rehabilitation Services Act and the General Welfare Assistance Act and by amending several other Statutes / Projet de loi 142, Loi révisant la loi relative à l'aide sociale en édictant la Loi sur le programme Ontario au travail et la Loi sur le Programme ontarien de soutien aux personnes handicapées, en abrogeant la Loi sur les prestations familiales, la Loi sur les services de réadaptation professionnelle et la Loi sur l'aide sociale générale et en modifiant plusieurs autres lois.

The Chair (Ms Annamarie Castrilli): Ladies and gentlemen, welcome. I am going to begin the proceedings by reading the time allocation motion which gives us authority to deal with this matter. It reads as follows:

"The standing committee on social development be authorized to meet to consider the bill for the purpose of conducting public hearings for two days at its regularly scheduled meeting times during the week of September 29, 1997, and from 6:30 pm to 9:30 pm on those same days; and

"That the committee be further authorized to meet to consider the bill for the purposes of conducting public hearings for four days during the next recess;

"That all amendments shall be filed with the clerk of committee by 5 pm on the fifth calendar day following the final day of public hearings on the bill;

"That the committee shall be further authorized to meet for two days during the above-noted recess for clause-by-clause consideration of the bill; and

"That the committee shall be authorized to meet beyond its normal hour of adjournment on the second day until completion of clause-by-clause consideration;

"At 5 pm on the second day of clause-by-clause consideration those amendments which have not yet been moved shall be deemed to have been moved and the Chair of the committee shall interrupt the proceedings and shall,

without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto;

"Any divisions required shall be deferred until all remaining questions have been put and shall be taken in succession with one 20-minute waiting period allowed pursuant to standing order 127(a)."

We therefore are beginning our clause-by-clause consideration.

Prior to doing that, a question has been raised with respect to the admissibility of amendments submitted by the Liberal caucus. In anticipation, and as a matter of process, I thought I would deal with that matter.

The arguments appear to take issue with both the form and intelligibility of this package. Normally I would not rule on amendments until they are moved but, as this is a process question, I am prepared to make a preliminary ruling.

I have perused all of the parliamentary texts and they all lay out the following principles:

1. The object of an amendment may be either to modify a question in such a way as to increase its acceptability or to present to the House a different proposition as an alternative to the original question.

2. It is an imperative rule that every amendment must be relevant to the question on which the amendment is proposed. Every amendment proposed to be made, either to a question or to a proposed amendment, should be so framed that, if agreed to by the House, the question or amendment would be intelligible and consistent with itself.

There is a dearth of information on the actual form of amendments in both parliamentary texts and in our own precedents. The only consistent theme is that amendments must be in writing.

There is nothing in the standing orders that specifically delineate the form an amendment is to take. It is worth noting, though, that our standing orders have been recently revised with respect to the admissibility and committee process on amendments.

The standing orders state the following:

"74(b) The Chair of a committee, including the Chair of the committee of the whole, shall rule out of order any amendment that he or she considers to be frivolous, vexatious, for purposes of delay or contrary to the standing orders or precedents.

"74(c) The chair of a committee, including the Chair of committee of the whole, may group the votes on amend-

ments appropriately grouped together, select the order in which amendments are to be voted, dispense with the reading of an amendment provided that the text of the amendment is available to members and members are informed of what amendment is before them, select from among duplicative amendments those which shall be voted and those which shall not, or take such other steps as he or she considers necessary to facilitate the committee's consideration and disposition of multiple amendments."

These amendments are not frivolous, vexatious, for purposes of delay or contrary to the standing orders. These amendments are in writing and were filed prior to the deadline as outlined in the time allocation motion which I have just read.

The only question left for me to determine is whether or not they are intelligible. Some might argue that the mere fact that the amendments are not on separate pages makes the entire package unintelligible. I have looked closely at the package and I feel that it would be difficult for anyone to argue that what we have before us is one long amendment. What we clearly have before us is a series of amendments. While I will concede that these amendments are not in the most preferable form, that is not the question.

Standing order 74(c) allows me to take such steps as I consider necessary to facilitate the committee's consideration of amendments, and as I cannot find any argument that clearly puts these amendments out of order based on their form, I have gone the next step and taken a look at the amendments in terms of intelligibility. I do have concerns with certain of the amendments. Having said this, I have decided to allow those motions that are intelligible to be moved, subject of course to any points of order that may be raised at the time the individual motions are moved.

While it is in order for us to simply use the existing Liberal package, I have asked legislative counsel to prepare a package of the Liberal amendments that are clear so that the amendments may be integrated into the committee's package and so that it will facilitate these proceedings. Legislative counsel has limited her changes to creating proper sentences in the context, putting an instruction as a new subsection following the subsection where they were discussed, and putting them into the usual motion format. All attempts were made to make motions which were precisely the motions filed. Any unclear motions were not redrafted.

On a final note, I would like to mention to all parties that it is advantageous to the committee if amendments are filed in a format that the committee is familiar with. One of the main reasons for this is so that the committee may be provided with an integrated package that facilitates the committee's work. To that end, legislative counsel is always available to help all parties draft amendments.

If there are no objections, I will instruct the clerk to hand out the Liberal motions; if there are any objections, we will use the original Liberal package.

Mr Jack Carroll (Chatham-Kent): I feel compelled to voice some concern with what has transpired here. In

my time in this committee process, amendments have always been submitted in the same format. In this particular bill, they were submitted in that format by the government and by the third party.

I fail to understand why 14 pages of notes submitted by the official opposition, in a format that clearly is different from what we're accustomed to, in a format that is, in my opinion, very difficult to understand — I fail to understand why an exception should be made that one of the three parties participating in this all-party process should take it upon themselves to decide that now is the appropriate time to change the format, to submit amendments in a form that is difficult to understand, and to have us now be in a position at the beginning of clause-by-clause hearing for the first time to see amendments in another format, with no opportunity to study them, to decide whether they are appropriate or not appropriate.

I find it just a very difficult decision that the Liberal caucus has made to contravene all procedure that we have become accustomed to in this House and to unilaterally decide that they just wanted to submit 14 pages of notes rather than the common practice of submitting amendments one by one, in a format that all of us could understand and deal with.

I take exception to the fact that you've made a decision that these amendments are in order. I think it sets a terrible precedent for what could happen in the future about how amendments would be submitted, by the fact that we're accepting these in a format other than what has become traditional. I just wanted those comments to be on the record.

The Chair: Any further comments? My decision is essentially this: If there are no objections, we will hand out the redrafted package, understanding that not all the motions are included, as all of them meet the criteria of the standing orders. As we go through the package, we will integrate the package of amendments which has just been given to you, so you'll have an opportunity as we go through clause-by-clause to review them.

Mr Carroll: Madam Chair, on a point of order: We all have a book with all the amendments in some sort of order. Do you intend to provide any opportunity for this particular package to be integrated into the package we currently have so we're not flipping back and forth from one pile to another pile? This is incredibly unusual, that here we are, the morning of clause-by-clause, with 101 different amendments submitted for the first time that we've seen them, obviously in a format that's now acceptable, but some considerable time after what was allowed. Do you intend to allow some time to integrate these into our package so that we know what we're doing as the day progresses?

The Chair: That is a point of order, Mr Carroll. Are you suggesting that we take some time out for you to do that? I had proposed that at the appropriate juncture, I would simply tell you where the new package you have fits in, but if you would like to propose that we take some time to do that, you can certainly feel free to do so.

Mr Carroll: Madam Chair, you've made it impossible for the government to even ascertain any serious consideration of these amendments, because we're just seeing them now and we have to deal with them just as we've seen them. It's a very unfair part of the process.

You've already made a ruling that they're admissible. I ask you now to make a ruling as to whether we can have some time to integrate them into our package so we can deal with this in a sensible way.

The Chair: I think that's a valid request, Mr Carroll. I will tell you, though, I take exception to your comment that these are new. As I indicated in my ruling, the amendments were submitted in time. The only thing that has happened is that those that were intelligible were put in a proper legal form. Nothing new has been added at all, and you've had the package certainly since the deadline.

Shall I grant you 10 minutes to insert them in your package?

Mr Carroll: Madam Chair, you're making the decision, so I'll take whatever time you're prepared to give.

The Chair: Very well. We're recessed for 10 minutes.

The committee recessed from 1015 to 1029.

The Chair: Ladies and gentlemen, I note that the first proposed —

Mr Carroll: On a point of order, Madam Chair: I just wonder how we are expected to know from this pile of a hundred amendments, extrapolated from the 14 pages of notes, which of these have changed from the original notes, which have been withdrawn from the original notes, how we are to be assured that there are in actual fact no new amendments other than those contained in the original notes. What plans do you have to allow us to be able to deal with these as anything other than brand-new amendments that have just been submitted this morning, rather than as something that refers back to those original 14 pages of notes that — quite frankly, I don't know how you expect us to relate one to the other to assure us that these are consistent and exactly the same from those original 14 pages of notes.

The Chair: Mr Carroll, you have the assurances of legal counsel that there have been no additions to the originals filed by the Liberal caucus. All that has been done on their part is to put it into legal language. There is an issue with respect to the ones that have not been included and we will let the Legislative counsel speak to that.

Ms Elizabeth Baldwin: I can tell you, sir, that I prepared the package of motions from the instructions that were there. There were some instructions which I wasn't able to render into motion form. At the time I prepared them, I sent a copy of the motions together with a covering memo both to Ms Pupatello and the clerk's office. I understand the clerk's office is getting a copy of that memo. That memo will set out which of the instructions I was not able to reconstruct in a motion from. I tried to the very best of my ability with regard to the ones that I had to not change any substance in the content of what was in the motions. However, I did change language to make it appropriate for being inserted into a motion and I did occasionally take the liberty when for example it was said to

put something into one subsection when the correct form would be to put it in a following subsection, or the same with a clause, to do that. I set those issues out in this memo. I understand from the clerk that a copy of this memo is coming shortly.

Mr Carroll: So I understand that some of what was on the 14 pages of notes is not reflected in amendments?

Ms Baldwin: That's correct.

Mr Carroll: And in some the wording has been changed?

Ms Baldwin: Slightly, without changing the meaning, but yes.

Mr Carroll: Madam Chair, I just wonder if the government was in a position where today they wanted to change some of the wording in their amendments, would that be admissible?

The Chair: Mr Carroll, I guess we'd have to see what it was you wanted to change. That's a hypothetical question that I'm not willing to speculate on at this point.

Mr Carroll: I'd like to be in a position to advise our staff that if we wanted to change the wording on an amendment, in view of your ruling that the wording of some of these amendments has changed from the original format outside of the prescribed time, we would have that same privilege extended to us, and the fact that the third party could also have that same privilege extended to them. Is that your ruling, that we have that option open to us?

The Chair: In this particular case, the amendments were in in a timely fashion. It's simply their rendition into legal language that has been done after that fact. Your amendments have all been in and translated into legal language, so I don't see the issue.

Mr Carroll: So we couldn't change any of the wording? Is that what you're telling me? Neither the government nor the third party would have the same option available to it that the official opposition did, in that they had the ability at a late date to change the wording of the amendments?

The Chair: I think I've answered the question and given the reasons for that.

Could we move on to section 1 of the bill.

Mr Bert Johnson (Perth): On a point of order, Madam Chair: I just wondered, those original 14 pages, we can disregard those now? They have nothing to do with what we're doing?

The Chair: In fact, you can put them to one side, yes.

Section 1 of the bill: Any comments? Section 2?

Mrs Sandra Pupatello (Windsor-Sandwich): Are you doing the vote after each section?

The Chair: What I propose to do, because we don't appear to have any amendments with the first four, is to deal with them all at once, unless there's discussion on each one.

Section 2: Any discussion? Section 3? Section 4?

Then we'll vote on sections 1 to 4 together. All in favour?

Mr Bert Johnson: I beg your pardon?

The Chair: We're voting on sections 1 to 4 together.

Mr Bert Johnson: Yes. I'm in favour of voting if we're all together.

The Chair: No, I mean the four sections together.

Mr Bert Johnson: Do you want those in favour?

The Chair: Yes. All in favour? Opposed? Carried. Section 5.

Mr Carroll: I move that subsection 5(3) of the bill be struck out and the following substituted:

"Same

"(3) Subsection 2(3) of schedule C shall be deemed to have come into force on September 1, 1996."

The Chair: Discussion?

Ms Marilyn Churley (Riverdale): I just wanted to ask, does that mean then that because it comes into force on December 1, anybody who participated in workfare before then is not covered by employment standards and other laws?

Mr Carroll: As I understand, workfare began on that date, September 1, 1996, so there were no mandatory workfare participants before that.

Ms Churley: So you can assure me that absolutely everybody involved in workfare will be covered?

Mr Carroll: That's right. That's the government's intention.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is carried.

All in favour of section 5, as amended? Opposed? The amendment and the motion are carried.

Section 6: Any discussion? All in favour of section 6? Opposed? Section 6 is carried.

We now move into schedule A. Section 1.

Mrs Papatello: I would like the committee to note that the purpose of schedule A, section 1, as brought forward in the amendment includes information that came forward in the Transitions report, which at that time was a significant undertaking by the government, and subsequently some of that was carried through during the NDP government. Much of the information is info that people who are actually out there on the front line would agree should be the intent of social assistance —

The Chair: Excuse me, Ms Papatello. Before we get into discussion, could you read the amendment.

Mrs Papatello: Do you want me to read the whole thing? I can pass the reading. Can we do that?

The Chair: No, it must be read.

1040

Mrs Papatello: I move that section 1 of schedule A to the bill be struck out and the following substituted:

"Purpose of the act

"1. The purpose of this act is to establish a program that,

"(a) acknowledges the inherent value and dignity of individuals whose circumstances have forced them to turn to the government for assistance and respects their rights as individuals as guaranteed in the Charter of Rights and Freedoms;

"(b) enables individuals in transition to access improved education and training opportunities in order to promote self-reliance through employment;

"(c) provides recipients, who are actively seeking to improve access to employment, with assistance to meet their basic needs for shelter, food, clothing, child welfare and personal health care;

"(d) provides enhanced incentives to recipients who are participating in an employment opportunity by providing them the stability that having assistance to meet their basic needs for shelter, food, clothing, child welfare and personal health care;

"(e) acknowledges the importance of providing support to families with children and compels government to provide an impact statement on the impacts of this legislation on children;

"(f) guarantees a clear and impartial decision-making process, including the right to due process, access to information, and the protection of privacy;

"(g) provides statistically accurate information which helps assess the effectiveness of the program to give taxpayers the confidence that funds are being used to promote access to increased employment opportunities; and

"(h) is efficient, open and publicly accountable."

Given the content of the amendment, I can't imagine that any government member and/or member of the third party would disagree with the purpose being set out in that amendment, because all of the rhetoric surrounding Bill 142 by government members has mentioned these very items, but to date they have not been reflected in the work of the government as it relates to those collecting social assistance. So I would expect that government members would be in favour of the change in the purpose of the act.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Any further discussion on section 1 of schedule A? Shall section 1 carry? All in favour? All opposed? The section carries.

Section 2.

Ms Churley: I move that section 2 of schedule A to the bill be amended by adding the following definitions:

"'assets' means money, funds, property or interests in property that can readily be converted into cash, but does not include money, funds, property or interests in property necessary for the health or welfare of an applicant, recipient or dependant;

"'income' means any payment in the nature of income made to or on behalf of an applicant, recipient or dependant and available to be used for basic needs and shelter."

This defines "income" and "assets" within the legislation. There is an ability for further elaboration in regulation, but we need to have the basic definition set in law. That's what this amendment is all about. It's taking it out of the regulatory regime and putting it right into the legislation.

Mr Carroll: We believe that the regulation-making authority of the bill to define any terms that aren't already defined is adequate to cover this particular area, and therefore we are not in favour of this amendment.

The Chair: Further discussion? Seeing none, all in favour of the amendment? Opposed? The amendment is defeated.

Mrs Pupatello: We can try this again. I move that section 2 of schedule A, definition of “assets,” be amended by adding the following definition:

“‘assets’ means money, funds, property or interests in property that are available to be used for maintenance and that can readily be converted into cash, other than those items necessary for the health and welfare of an applicant, recipient or dependant.”

The Chair: Discussion?

Mrs Pupatello: None.

The Chair: Seeing none, all in favour of the amendment? Opposed? The amendment is defeated.

Mr Carroll: I move that section 2 of schedule A to the bill be amended by adding the following definition:

“‘biometric information’ means information derived from an individual’s unique characteristics but does not include a photographic or signature image.”

This amendment clarifies our definition of “biometric information” and responds to concerns that have been raised by the privacy commissioner that privacy standards be enshrined in statute by defining the term “biometric information.”

Ms Churley: I just want clarification. What exactly does this mean in terms of what the recipient has to provide? It’s my understanding the image is taken, a number is assigned to that image and then the image is destroyed. Is that correct?

Mr Carroll: I’m going to let an expert respond to that.

Mr Allan Kirk: That’s correct.

Ms Churley: That’s correct. My understanding — and true, I haven’t attended the committee hearings; I’m pinch-hitting for our critic, Peter Kormos — is that when Mr Harris mused about fingerprinting or imaging, whatever you want to call it, for all citizens, there was a pretty big outcry and it was dropped. Welfare recipients have made it very clear that they don’t want to be singled out in our society. Why would you not just drop this, given the huge amount of money it’s going to take? I’m sure you fought this out at the committee level, but I still want to know. With the huge bureaucracy that’s going to have to be created to do this, in terms of the amount of money that might be saved at the end of the day, why are you keeping it in there at all?

Mr Carroll: The legislation is permissive in that it allows it to happen some time in the future. Obviously it’s one of the anti-fraud measures. If there is some technology available that allows us to make sure that benefits go to those people who are deserving of benefits and not to those who are not, then it’s incumbent upon the government to pursue that. The reason it’s being left in there is that it’s permissive to allow it to happen some time in the future.

Ms Churley: Just one more question: Is the government looking as well at providing this for other people in society who benefit from benefit grants who have the opportunity to abuse the system, or is it just for welfare recipients?

Mr Carroll: I’m not aware of what other ministries might be looking at.

Mrs Pupatello: Can you confirm that with the addition of this as a definition — as it relates to the cost to municipalities, the information we have to date is that instituting this kind of information-gathering would be a very costly measure for municipalities and that, given the passage of Bill 152 and the download of costs to municipalities, they will be on their own to provide the wherewithal to take this kind of information. For example, if there is a machine that’s to be purchased, will the government be picking up 50% of the cost of this particular machine that will take the biometric information and 50% will be paid by the municipalities?

Mr Carroll: That’s a fairly hypothetical question. Bill 152 and Bill 142 see a cost-sharing between municipalities in the province and various parts of social assistance. How biometric information, when and if it becomes a reality, fits into that I’m not aware of at the current time.

Mrs Pupatello: But as far as you know, it will be cost-shared 50-50?

Mr Carroll: I guess I don’t know that.

Ms Churley: I just want to go on the record. I know the government members will pass this with their majority, but I find this a particularly odious part of the new legislation. I believe that it’s wrong and immoral to single out welfare recipients in particular for this kind of treatment. That’s it. I want to put that on the record.

The Chair: All in favour of the amendment? Opposed? The amendment is carried.

Mr Carroll: I move that the definition of “municipality” in section 2 of schedule A to the bill be amended by adding at the end “or the county of Oxford.”

The county of Oxford has a unique characteristic that needs to be addressed in the bill, so this is basically a housekeeping issue.

Mrs Pupatello: Just for clarification, may I please have on record the idiosyncrasy of the county of Oxford that would cause that addition?

Mr Carroll: It’s neither a regional municipality nor a county. In most pieces of legislation you’ll see the county of Oxford has its own little specific reference. It’s one of those anomalies.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment carries.

Shall section 2 carry, as amended? All in favour? Opposed? This section is carried.

Sections 3 to 6: Any debate with respect to those sections? Very well. All those in favour of sections 3 to 6? Opposed? The sections carry.

Section 7.

1050

Ms Churley: I move that subsection 7(3) of schedule A to the bill be amended by striking out “No person is eligible for income assistance unless” at the beginning and substituting “An administrator may deny income assistance to a person unless”.

I hope the government members will support this amendment, because it changes the emphasis of eligibility so that there is discretion to waive pointless requirements, such as requiring a specific piece of identification, say, a

birth certificate. That could make a very big difference. I believe there has to be some discretion. This allows there to be some discretion.

There are situations where, as you know, people cannot provide a very specific piece of information. There are sometimes people in dire need and hardship who have other pieces of identification. I have dealt with them in my constituency office over the years, and we have been able to assist them in coming up with enough information and identification to prove who they are and their date of birth. I would hate to see some person in dire need be limited or not be granted some kind of assistance because they don't have a very specific piece of information.

This just reverses it a little bit in terms of the wording, but it certainly still makes it clear in the law that there has to be some form of identification which would prove what's needed so they can get the help they need, but it does allow that discretion, which I think is absolutely essential.

Mr Carroll: Clause 7(3)(c) gives administrators the option to make those discretionary decisions. As a result, we think the option is already there in 7(3)(c) and we believe that making this amendment would open the doors for social assistance to be paid to people who were not eligible. We think your concerns are covered under the provisions in clause 7(3)(c).

Ms Churley: Can I ask for clarification on that? If you think it's covered under another section, I don't quite understand why, if it's covered there, it would open the door to abuse in this case but not in that case.

Mr Carroll: It gives discretion to the administrators to make those decisions —

Ms Churley: But not to the worker.

Mr Carroll: — and get the proof after the fact. If the person needs help and the proof they need is not available, they have the discretion to say, "We'll get the proof later." We think the discretion exists currently in the act the way it's written. We don't need to add any more discretionary power to it.

Ms Churley: Why do you think, though, that changing the wording as I've proposed it, when it's worded the way it is, would leave the door open to abuse? It still allows for an administrator to deny assistance if some form of identification is not available.

Mr Carroll: Obviously, you and I are not understanding one another properly, so maybe I'll let Allan take a crack at it.

Mr Kirk: If you change the language to "An administrator may deny income assistance to a person unless," the very first thing is that the person is a resident in Ontario. The language you're suggesting would mean that an administrator could pay someone who was not a resident of Ontario. The need is to be very clear that people who, as an example, are not residents of Ontario are not eligible for assistance. The intent was not to deny someone assistance if they could not produce the required information at the time of application.

Ms Churley: But because of the way this is worded now, could it in fact happen that somebody could be

denied assistance because they don't have a very specific piece of identification?

Mr Kirk: There is also regulation-making authority in section 74 that talks to the time and manner of providing information.

Ms Churley: Ah, the old regulation trick.

The Chair: Any further discussion on subsection 7(3)? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Papatello: I move that subsection 7(3) of schedule A to the bill be amended,

(a) by striking out "No person is eligible for income assistance unless" in the first and second lines and substituting "An administrator may deny income assistance unless"; and

(b) by striking out "and the verification of information" in the second and third lines of clause (c).

My comments very much are outlined by information that has now been tabled just a moment ago, and we support the idea that the government should be more responsible for vetting out information that would not make the person eligible. Specifically, the (b) we are proposing here, "and the verification of information," speaks to that not being for eligibility. In that same clause, it talks about prescribed provision of information, and we believe that would be sufficient.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is defeated. In the light of that, I think the next one is redundant; it's a repetition.

Ms Churley: I move that subsection 7(4) of schedule A to the bill be struck out and the following substituted:

"Same

"(4) Where appropriate employment measures are available, a recipient and a prescribed dependant may be required as a condition of eligibility for basic financial assistance to make reasonable efforts to fulfil the prescribed obligations to improve their job skills or to obtain employment.

"Same

"(5) If a recipient or a member of his or her benefit unit, without reasonable cause, refuses or fail to meet his or her obligations under subsection (4) the administrator may, in respect of the recipient or member, deny basic social assistance or reduce the basic financial assistance as prescribed by the regulations."

This addresses the fact that the bill does not place an obligation on the government to provide any kind of employment assistance. The obligation on the individual to find employment exists only where appropriate employment measures are available. It exempts from workfare people with temporary disabilities or illnesses, sole-support parents of preschool-age children, parents who do not have access to safe and affordable child care, persons over 60 years old and others prescribed by regulation. This amendment also says that employment programs and supports will be made available to those exempt persons if they request them.

I believe it's important, when we have an obligation on the recipient, that there also be an obligation on the government to provide certain supports and services. I don't know if people here and members of this committee have been following some of the programs in the United States. I certainly have, and it's very clear that the programs which are the most successful are those which supply supports for its citizens. Yes, it does cost government some more money, but the end result, the benefit down the road, actually reduces costs. It helps people get back into the workforce when those supports are supplied by the government. I believe that in some communities across Ontario, without some obligation on the government to provide some of those services, people are just not going to be able to meet this requirement.

Mr Carroll: The amendment comes to the heart of a basic component of the Ontario Works program, and that is the community participation, the mandatory nature of it. As a result, it basically is in contravention of the express purpose of the Ontario Works legislation, so we find it unacceptable.

The Chair: Any more discussion? All in favour of the amendment? Opposed? The amendment is defeated.

1100

Ms Churley: I move that section 7 of schedule A to the bill be amended by adding the following subsections:

"Same

"(6) The requirements set out in subsection (4) do not apply with respect to a recipient or dependant who is a member of any of the following classes of persons:

"1. A person determined by a prescribed person to have a fixed-term disability or to be unemployable for social or medical reasons.

"2. A sole-support parent who has a child with special needs or who is not yet attending school full-time.

"3. A person with a child who would require child care in order to meet the requirements, if the person does not have access to safe and affordable child care.

"4. A person to whom the prescribed circumstances apply.

"5. A person over 60 years of age.

"Same

"(7) Employment programs and supports under subsection (4) shall be made available to a person described in paragraph 2 or 5, if the person requests them."

The Chair: Discussion?

Ms Churley: No. I think it's self-evident.

Mr Carroll: Just to clarify for the record, the existing Ontario Works program guidelines, which will be continued under the new program, provide opportunity for temporary deferral in the following circumstances: a temporary illness or injury; lack of appropriate child care or attendant care for a dependent family member where a person is a caregiver for a family member with a disability or a senior with special needs; or someone who is on pregnancy or parental leave. Those currently exist as guidelines in the existing Ontario Works program and they would be continued. The other issue, of course, is that this amendment would exclude 60- to 64-year-olds, which is

contrary to the government's direction. For those reasons, we are opposed to this amendment.

Ms Churley: One of the reasons this amendment was made is to head off denial of benefits to family members such as grandparents, aunts or uncles who take care of the child when a parent cannot or will not do so. That's one of the purposes of this amendment. Are you saying that could not happen under your legislation?

Mr Carroll: Maybe I could defer to an expert to comment on that.

Mr Kirk: If the person is a caregiver for a family member, so if it's a grandparent or an uncle or that who is caring for the child because the parents can't or won't, they'd be considered under that guideline today, and that will continue in the future.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Papatello: I move that section 7 of schedule A to the bill be amended by adding the following subsection:

"Same

"(5) A recipient is exempt from subsection (4) if,

"(a) the recipient is a sole-support parent where the youngest child has special needs or is not yet attending school full-time, or does not have access to safe and affordable child care;

"(b) the recipient is over 60 years of age;

"(c) the recipient or dependants, including victims of family violence and children under the supervision of children's aid society.

"Same

"(6) Despite subsection (5), access to programs and supports shall continue to be available to applicants, recipients and dependants regardless of circumstances."

To comment on this amendment, although I'm not hopeful, given the defeat of the preceding amendment, my concern about the parliamentary assistant's response is that while the guidelines currently out there on workfare as pilot projects — the most significant difference is that the program is currently not obligatory. In fact, many municipalities have yet to sign on, and municipalities administering the program are also in a position to not have certain individuals participate in the program for those reasons. That of course will change after the passage of the bill, because they will not have that choice.

As we know so far with these pilot projects, each municipality, even those that have voluntarily participated before they were threatened to participate — their business plans are a far cry from being effective. In fact, this is probably one of the most ineffectual programs the government has sent out to municipalities to administer.

While their talk is that the intention is to protect these individuals, they are not protected under the legislation, so we would like to have that clearly included in the bill.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 7, as amended, carry? Oh, I'm sorry. We didn't have any amendments this time. One remains ever hopeful. All in favour of the section? Opposed? The section is carried.

Section 8.

Mrs Papatello: I move that section 8 of schedule A to the bill be amended by adding "and" at the end of clause (a), by striking out "and" at the end of clause (b) and by striking out clause (c).

We are very disappointed with the addition in particular of clause (c), which describes "members of the prescribed classes of persons." While we have had some discussion with government members about the true meaning and need to have such a clause included in that section 8, we're not at all comfortable with allowing the government, through regulation alone, to include an entirely new class of persons who then can be vetted from the system in receiving assistance. We haven't had any consolation from the descriptions given so far by the parliamentary assistant of what its use would be, and we would prefer that it be removed entirely.

The Chair: Further debate? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 8 carry? All in favour? Opposed? The section is carried.

Section 9: Is there any discussion? Shall section 9 carry? All in favour? Opposed? Section 9 carries.

Section 10.

Ms Churley: I move that section 10 of schedule A to the bill be amended by striking out "temporary" in the first line of clause (a), by striking out clause (c) and by striking out "as prescribed" at the end of clause (d).

The Chair: Discussion?

Ms Churley: I'd like to be able to discuss it, if you can give me a moment. Never mind. I'm sorry, I'm a little bit out of order here. Go ahead and take the vote on it.

Mr Carroll: If I could just make a comment that might set Ms Churley's mind at ease on this, if we remove clause (c) it would mean that a child could receive both basic financial assistance under Ontario Works or income support under ODSP and a temporary care allowance. They could receive both benefits if we remove clause (c).

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 10 carry? All in favour? Opposed? The section carries.

Shall section 11 carry? Opposed? Section 11 carries.

Section 12.

Mr Carroll: I move that section 12 of schedule A to the bill be amended by striking out "a recipient or dependant" in the third and fourth lines and substituting "an applicant, recipient, spouse or dependent adult" and by adding the following subsection:

"Dependent child

"(2) Subsection (1) applies with respect to a dependent child who owns or has an interest in property but only if the property was transferred to the child within the prescribed period by a person of a prescribed class."

This amendment clarifies that liens will not be placed against property owned by a child unless it is apparent that the property was transferred to the child's name in order to avoid a lien being placed against it. This amendment responds to a request of the Children's Lawyer, who

expressed concerns with potentially placing liens against property owned by a dependent child. As we all know, a dependent child is not responsible for the support of the family.

1110

Ms Churley: The intent of that, as I understand it, possibly would be to be able to prevent a parent from transferring ownership to a child during the period they are collecting benefits. Is that part of what you're trying to do here?

Mr Kirk: Ascribing the property to the name of the child in order to avoid a lien being placed against it if we exempt dependent children.

Ms Churley: Is that allowed under the Constitution? If somebody owns some property, don't they have the right to transfer that ownership when they please? I don't quite understand how you can do that.

Mr Kirk: I don't see why that would be unconstitutional, against the charter.

Ms Churley: So they can transfer it. Okay. I'm getting it here. Nothing can prevent them from transferring it.

Mr Kirk: No, but if the —

Ms Churley: I see. Thank you.

Mr Peter L. Preston (Brant-Haldimand): It may be redundant now, but the same thing holds in transferring during bankruptcies or just prior to bankruptcies. You can't shed a thing just to get away from your obligations.

Mrs Papatello: I would like to be on record, on behalf of my party, as absolutely and completely opposed to the concept of liens where they relate to social assistance recipients, on the basis that although this government purports to be trying to give people a hand up to get off the system, the use of liens acts as a deterrent to people leaving the system.

Ms Churley: I just want it on the record that the NDP caucus wanted to delete this entire section, but my understanding is that the way leg counsel drafted the amendment, the clerk has ruled it out of order. I just want it on the record that I agree with my colleague from the Liberal caucus and that my caucus as well is adamantly opposed to this. If at all possible, I would like to vote to delete the whole thing. Failing that, I will just vote for the amendment against the government's amendment on this.

The Chair: Ms Churley, you're jumping ahead to your section. I'm happy to deal with it if it expedites things. The reason that amendment is out of order is that it is not an amendment at all. It's a recommendation. It wasn't drafted as an amendment and that's why we can't deal with it.

Ms Churley: I'm ahead of myself. Okay, I'm on the record now ahead of schedule.

The Chair: Further discussion? No. All in favour of the amendment? Opposed? The amendment carries.

Mrs Papatello: I move that section 12 of schedule A to the bill be amended by striking out "or dependant" in the fourth line and by adding the following subsections:

"Same

"(2) Liens should not be applied to persons with long-term disabilities or to sole-support parents of dependent children.

"Same

"(3) The amount recoverable under the lien shall be restricted to the maximum shelter allowance.

"Same

"(4) The amount recoverable under the lien shall not be subjected to interest."

My comments on this, having already suggested our very strong position against liens and that the government is insistent on bringing liens in: We recommend that you, minimum, consider the following amendment, and that is specifically to make it the least difficult for individuals who are on assistance. In particular, I point out the amount recoverable under the lien being restricted to maximum shelter allowance.

The truth is that when people are on assistance, there's a portion of that assistance that is scheduled as the shelter allowance. The balance is for food, clothing etc. The government members well know that the entire amount being put against the home in the form of a lien really doesn't make sense, because you're suggesting that you're going put it in terms of a lien for basic items like food and clothing. If you're going to be insistent on bringing liens in, then it should truly only be the portion the government pays the recipient for shelter.

Mr Bert Johnson: I'm just saying it shouldn't include the "etc."

The Chair: Any more comments? No. All in favour? Opposed? The amendment is defeated.

The next motion we've already dealt with as being out of order.

Ms Churley: Madam Chair, if I may, that's where I jumped ahead of myself, isn't it? Let me reiterate that I think this particular section isn't a deterrent and is punitive and does nothing to help people on social assistance get back in the workforce. I firmly believe the whole section should be taken out.

The Chair: Thank you. Shall section 12, as amended, carry? Opposed? The section carries.

Section 13.

Mrs Papatello: I move that subsection 13(1) of schedule A to the bill be amended by striking out "for basic financial assistance, require an applicant, a recipient, a dependant or a prescribed person to agree to reimburse the administrator for the assistance to" in the last five lines and substituting "money due or owing or which may become due or owing to a recipient, which would, if received, have been income within the meaning of the act and regulations during the period of receipt of assistance be provided."

The Chair: Discussion?

Mrs Papatello: None required.

The Chair: Very well. All in favour of the amendment? Opposed? The amendment is defeated.

Ms Churley: I move that subsection 13(1) of schedule A to the bill be amended by adding at the end "from money due or owing or that may become due or owing to a

recipient and that would, if received, have been income during the period of receipt of assistance."

That just defines more clearly in legislation, not regulation, what moneys could be reimbursed.

Mr Carroll: I have a comment on that. I believe that our amendment coming up next makes it very clear that Ontario Works does not intend to be a loan program and would therefore make this amendment unnecessary.

Ms Churley: You're saying that in your next amendment coming up this is covered as part of it?

Mr Carroll: It makes it clear that Ontario Works is not a loan program.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Mr Carroll: I move that section 13 of schedule A to the bill be struck out and the following substituted:

"Agreement to reimburse and assignment

"13(1) An administrator shall in prescribed circumstances, as a condition of eligibility for basic financial assistance, require an applicant, a recipient, a dependant or a prescribed person to agree to reimburse the administrator for the assistance provided or to be provided.

"Same

"(2) An agreement under subsection (1) may require an assignment, as prescribed.

"Same

"(3) This section does not apply to,

"(a) a payment that would be exempt as income or assets under this act or the regulations; or

"(b) that portion of employment earnings, pension income or other prescribed income that is paid with respect to a period after the period during which the person receives assistance."

This clarifies our government's intention that Ontario Works is not a loan program and that we have no intention of considering income or assets under an assignment that would not have been considered as part of the original application, or that we are not interested in assigning earnings or income that don't deal with the period of time for which the person received assistance.

The Chair: All in favour of the amendment? Opposed? The amendment is carried.

Shall section 13, as amended, carry? Opposed? The section carries.

Sections 14 through 16, any discussion? All in favour of sections 14 through 16? Opposed? Sections 14 through 16 are carried.

Section 17.

1120

Mrs Papatello: I move that subsection 17(1) of the bill be amended,

(a) by inserting after "may" in the first line "with the consent of the recipient in accordance with the Substitute Decisions Act, 1992";

(b) by adding "or" at the end of clause (a);

(c) by striking out "or" at the end of clause (b); and

(d) by striking out clause (c).

The Chair: Discussion?

Mrs Papatello: This amendment is intended, at minimum, to save the government from a court challenge in that we are very concerned about the fact that instituting this section as unamended would lead to a court challenge which the government would lose because they would be refusing assistance or requiring certain elements different from others simply on the basis of age. In fact there are a number of other ways to get at the same intent that the government has and we feel that through use of the Substitute Decisions Act, 1992, that would still meet the government's intent and frankly save a costly court battle which we believe the government would lose.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment is defeated.

Ms Churley: I move that subsection 17(1) of schedule A to the bill be amended by striking out clauses (a), (b) and (c) and substituting "the recipient is incapacitated or is incapable of handling his or her affairs."

This creates only one condition for appointing a trustee or a guardian and it also removes the denial of benefits to 16- and 17-year-olds in their own right.

Mr Carroll: In actual fact the effect of this amendment would be to allow staff to make a determination that a person is incapable of handling his or her affairs. We don't agree with that. Also, on page 15 we will get to a government amendment that deletes the matter of determination of capacity, which we believe is more appropriately dealt with under the Substitute Decisions Act. Those were the comments that we heard certainly during the committee process. So (c) will be deleted should our amendment pass. Also, this motion makes capacity the only ground for appointing a trustee and we believe there are more grounds than strictly capacity. For those reasons, we are opposed to this amendment.

Ms Churley: What about the issue around the 16- and 17-year-olds?

Mr Carroll: It is the government's intention that for 16- and 17-year-olds to qualify for benefits, it would be a trustee appointment.

Ms Churley: It would be?

Mr Carroll: Yes.

Ms Churley: Under all circumstances?

Mr Carroll: Yes.

Ms Churley: I want it on the record that I don't support that.

Mr Carroll: That issue comes up later.

Ms Churley: Okay.

The Chair: Any further debate? All in favour of the amendment? Opposed? The amendment is defeated.

Mr Carroll: I move that section 17 of schedule A to the bill be struck out and the following substituted:

"Appointment of person to act for recipient

"17(1) An administrator may appoint a person to act for a recipient 18 years of age or older if there is no guardian of property or trustee for the recipient and the administrator is satisfied that the recipient is using or is likely to use his or her assistance in a way that is not for the benefit of a member of the benefit unit.

"Same

"(2) An administrator shall appoint a person to act for a recipient who is under the age of 18 years if there is no guardian of property or trustee for the recipient.

"Same

"(3) An administrator may provide assistance for the benefit of a recipient to the recipient's guardian of property or trustee or to a person appointed under subsection (1) or (2).

"Compensation

"(4) A person to whom assistance is provided under subsection (3) is not entitled to a fee or other compensation or reward or to reimbursement for costs or expenses incurred by acting under this section, except as prescribed.

"Report and account

"(5) A person appointed under this section to act for a recipient shall report and account in accordance with the regulations."

Just a quick rationale for this. Subsection (1) has been amended to remove a provision that would have allowed social assistance staff to determine an individual's mental capacity. This assessment is more properly governed by the Substitute Decisions Act. This provision can be removed because Bill 142 has other grounds upon which a determination can be made that a trustee should be appointed.

Subsection (2) has been amended to make mandatory the appointment of a trustee for a recipient who is under 18 years of age and who has no guardian or trustee.

Subsection (4) has been amended to provide compensation by the ministry to a trustee where prescribed by regulation.

Subsection (5) is a new provision to require greater accountability of appointed trustees as specified in regulations. That certainly deals with an issue we heard at committee about the accountability of trustees.

Ms Churley: Does that mean you get around the charter by having it apply to everybody?

Mrs Papatello: Just say yes, Jack.

Ms Churley: Just say yes.

Mr Carroll: I didn't hear you.

Ms Churley: Are you getting around the charter here by having it apply to everybody? Is that what's happening here?

Mrs Papatello: Yes.

Mr Carroll: I don't understand the question still. We don't understand the question.

Mrs Papatello: I think it's clear what has happened. We clearly saw that the wording in the bill as presented earlier would have been significantly discriminatory towards those under the age of 18 in that there was a presumption that those individuals simply could not handle their affairs in any circumstance. Now with the amendment presented by government, they've managed likely to get around that by indicating that addition of "An administrator may appoint a person to act for a recipient 18 years of age or older" and under the age of 18. That in fact just circumvents that little issue, so I applaud the government for being so damned clever.

Mr Carroll: Just one comment. I guess since this amendment deals with issues we heard at committee, we can expect support from the official opposition and third party on this particular amendment.

Mrs Papatello: That would suppose that the Liberal opposition was actually in favour of this bill, which it is not.

The Chair: All in favour of this amendment?

Mr Carroll: Can we have a recorded vote on this one?

The Chair: Recorded vote.

Ayes

Carroll, Froese, Bert Johnson, Preston.

Nays

Churley, Papatello.

The Chair: Ms Churley.

Ms Churley: I move that section 17 of schedule A to the bill be amended by adding the following subsections:

"Report

"(4) A person acting for a recipient under this section shall submit to the administrator and the recipient an annual report of how the recipient's assistance was administered, as prescribed.

"Same

"(5) A recipient on behalf of whom a person has been appointed may request that the person report to the recipient on how the recipient's assistance was administered and if the recipient does so, the person shall give the recipient a written report within 30 days after the request.

"Offence

"(6) No person appointed to act for a recipient under this section shall knowingly misappropriate or misdirect money received on behalf of the recipient or breach an obligation imposed on the person under this act.

"Penalty

"(7) A person who contravenes subsection (6) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both."

The Chair: Ms Churley, your amendment is out of order due to the government amendment which was passed.

Mrs Papatello: I move that section 17 of schedule A to the bill be amended by adding the following subsections — will the same apply with this?

The Chair: Yes, it would also be out of order for the same reasons.

Shall section 17, as amended, carry? All in favour? Opposed? The section is carried.

1130

Ms Churley: I move that section 18 of schedule A to the bill be struck out and the following substituted:

"Money paid to third party

"18(1) A portion of basic financial assistance may be provided to a third party on behalf of a recipient if an amount is payable by a member of the benefit unit to the third party for costs relating to shelter and the recipient

requests that it be provided to the third party or consents to its being provided to the third party.

"Same

"(2) The amount provided to the third party shall not exceed the maximum shelter allowance payable to the recipient.

"Same

"(3) If a recipient or trustee disputes the amount of money to be paid to a third party under this section and notifies the administrator of that fact, no portion of basic financial assistance shall be provided to the third party until the dispute is finally resolved.

"Offence

"(4) No person shall provide false or misleading information to a delivery agent or withhold relevant information from a delivery agent in order to receive a payment under this section.

"Penalty

"(5) A person who contravenes subsection (6) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both."

The Chair: Discussion?

Mr Carroll: Just quickly, the purpose for allowing of course third-party payments is to benefit the recipient so that things like their shelter is being paid for. If in fact we would allow this amendment, the necessity of it being a request by the recipient or a consent by the recipient could easily lead to the more burdensome requirement of a trustee being appointed, which then of course would involve the whole of the allowance being managed by someone else. We don't think it's in the best interests of the recipient to have to go that particular step. There's also authority under the regulation-making authority of the bill to deal with the rules surrounding third-party payment. We believe that the interests of the recipients will be protected in that.

Ms Churley: Just a question then. What happens in a situation where the amount of rent, say, is in dispute, rent increases or repairs are not undertaken, all of those kinds of things? Don't you consider that to be a problem?

Mr Carroll: I'm not specifically sure about that so I'd rather let Allan answer that question for you, because it could be a problem.

Mr Kirk: It would be a problem. The intent would be that where there's a landlord-tenant dispute and the tenant is in fact withholding rent for a valid reason, pay direct would not be applied.

Ms Churley: There's a new rent control — in fact, there's rent decontrol going on. How in the world will you administer such a system?

I'm very nervous about this. I disagree with parts of this anyway, but the idea that there are going to be more and more people out there, as you know, particularly in the Toronto area, perhaps other areas as well, a very low vacancy rate, and there are going to be, I believe, more and more problems within the marketplace with repairs not being done and that sort of thing. I just don't see how you're going to have any kind of — I think you'd have to

create a fairly big bureaucracy to avoid this kind of situation where you're going to have a lot of landlords out there getting money when they shouldn't be getting it. I think that's atrocious that you're going to end up in a situation like that. Are you going to have landlords fingerprinted to make sure they don't abuse the system? How are you going to deal with it?

Mr Carroll: I'm not aware of any movement afoot to have anybody fingerprinted, first of all. I guess the intention of this is to make sure that persons who are receiving assistance in fact take care of their basic needs of shelter. It's not to favour the landlord over the recipient; it's to make sure that the basic need of shelter that is paid for through their benefit is in fact going for shelter. I can't imagine any cold-hearted administrator allowing some of the situations like you talk about to arise and not address them. The intention is to be fair to the recipient and to be fair to the person who provides the shelter, and I think this addresses that.

Mrs Papatello: Could the ministry staff explain where his intention as explained is in the bill?

Mr Kirk: It's regulation-making authority to determine the rules around it.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Papatello: I move that section 18 of schedule A to the bill be struck out and the following substituted:

"Money paid to third party

"18(1) A portion of basic financial assistance may be provided directly to a third party, with the consent of the recipient, if the amount is payable by a member of the benefit unit, for current shelter costs up to the maximum shelter allowance.

"Same

"(2) The recipient has the right to appeal the decision to pay a third party directly under subsection (1).

"Same

"(3) Where a recipient subject to pay direct notifies the administrator that the third party's entitlement to receive the allowance is disputed, payment must cease forthwith until entitlement to the payment is determined."

My commentary is specifically related to the ministry's explanation a moment ago, where we would prefer to have this kind of item actually enconced in the bill as opposed to in regulation, which is subject to change, which is subject to the policy handle put out by the ministry, and in light of the flux that rental housing as an issue is in, in particular in large, urban centres. I think there's certainly a need that if you're very concerned about the recipient and where that recipient would live, then the government members shouldn't have any qualms about voting in favour of such an amendment.

The Chair: Further debate? All in favour of the amendment? Opposed? The amendment is defeated.

All in favour of section 18? Opposed? The section is carried.

Mrs Papatello: I move that subsection 19(3) of schedule A to the bill be amended by striking out "or the recipient's spouse" in the second line.

My comments on that, I think, are very obvious. In fact, right here in this room we heard from a particular group who spoke to us about the concerns of this bill as it relates to an individual of a family who may be subject to abuse and undue influence. We don't believe that spouses should be caught up in all of this, because there may be very good reasons why they shouldn't be or why they would be forced to do things or intimidated by the recipient. We feel that this is a very appropriate move, and if the government were to vote in favour of this amendment, it would indeed be an indication that they are listening.

Ms Churley: I just want to strongly reinforce the comments from my Liberal colleague that we've all expressed concerns about spousal abuse. We know it's out there and this is just adding one more situation that could prove to be dangerous. I would hope that the government members — and I would like a recorded vote on this, by the way — would support this amendment.

The Chair: All in favour of this amendment? Recorded vote.

Ayes

Churley, Papatello.

Nays

Carroll, Froese, Bert Johnson.

The Chair: The amendment is defeated.

Mrs Papatello: I move that section 19 of schedule A of the bill be amended by adding the following subsection: "Same

"(3.1) The administrator or director shall ensure that the recipient is provided with full access to his or her files from the other program or where the overpayment has occurred."

I believe that's fairly clear.

The Chair: Any debate? All in favour of the amendment? Opposed? The amendment is defeated.

Ms Churley: I move that section 19 of schedule A to the bill be amended by adding the following subsection:

"Exception

"(5) This section and sections 20, 21 and 22 do not apply with respect to an overpayment,

"(a) that was the direct result of the failure of the delivery agent to act within a reasonable time on information received;

"(b) that was the direct result of an error in determining the amount of basic financial assistance;

"(c) that was the direct result of an error in judgement on the part of the administrator; or

"(d) that was due to the error or neglect of a person who received money on behalf of a recipient under section 17."

This does not allow for an overpayment to be imposed where it is the result of administrative error or neglect. I believe that this is just some added protection. We know that errors and neglect do happen from time to time and it just adds that extra protection.

1140

Mr Carroll: On this particular amendment, overpayments, regardless of how they originated, represent monies that the recipient was not entitled to and for that reason should not be allowed to keep. Administrative overpayments are recovered in other sorts of government programs such as employment insurance, so we don't believe that it's a prudent use of the taxpayers' money to not allow for recovery of overpayments, regardless of the reason they happen.

Ms Churley: What do you do with recipients who because of an error or neglect receive some overpayment and it's finally discovered and they have no extra money? What are you going to do to them to make them repay it when it's not their fault and they find themselves, through no fault of their own, in this situation and don't have the capacity or the ability to repay this money? What happens to them? Will it be automatically deducted, once the error is corrected, from the meagre amount, whatever it is, they're eligible to receive and put them in further jeopardy? I think this is extremely punitive when it's happened through no error of their own.

Mr Carroll: I would assume and I would certainly expect that an underpayment wouldn't be corrected and the person would be reimbursed for any amount of an underpayment. I believe that gate swings both ways and an overpayment, which is money they're not entitled to, should in fact be returned too.

Mrs Papatello: Given the parliamentary assistant's comments just now that if an underpayment was made you expect that the government would top up the amount that was underpaid, does that mean that in this past year when, as you know, municipalities are struggling to move all of those who are disabled into the disability category, but who are currently accepting welfare — and we understand there's a significant difference in payment — given your comments, all those in this past year who have moved from welfare to disability, before implementation of this bill, you are now going to pay the difference that you haven't been paying for the past whatever amount of time that they were on welfare since you cut the rates?

You've just indicated that an underpayment is the same, so truly these individuals who are on welfare who've been moved over to disability, where the difference is some \$400 a month, that you are now committing to pay those people the \$400 a month that they've not been receiving on welfare?

Mr Carroll: What I'm saying is that if a person has not been receiving the benefit that they are entitled to because of some administrative mistake, then I believe the government has an obligation to top them up on that, and if a person has been receiving a benefit in excess of what they were entitled to because of an administrative mistake, the person receiving the money has an obligation to return those funds. I just think the gate swings both ways.

Mrs Papatello: Could you please confirm then for the record that you are going to be reimbursing all those individuals —

Mr Carroll: It has nothing to do with the question you're asking; it has to do with what a person is entitled to under the current act and whether or not they receive what they're entitled to, less or more.

Mrs Papatello: Under the current act there are individuals who by virtue of bureaucracy have not been placed in their appropriate place in the system, who are now being moved into their appropriate place. That, as you've just described, would be the ministry's responsibility, but because of their inappropriate placement they are receiving some \$400 less per month because they've been inappropriately placed on welfare versus disability and now municipalities are in a huge hurry to make those moves before this bill gets passed. I think your records would indicate that's true. In fact those people have been underpaid the entire time that they've been on welfare. I just want to be sure that when you make these comments you intend to follow through with people who for, at minimum, the last year have been underpaid by \$400 a month.

Mr Carroll: My comments have to deal specifically with the benefits paid to a person vis-à-vis what they're entitled to under the law.

Ms Churley: I still want clarification about what happens to people. Let's take a scenario. You have a disabled person who through an error has been receiving — I shouldn't say "disabled," because I recognize that's going to be coming under a different category, but a person who is receiving an overpayment for several months and has no idea that they're receiving an overpayment and they spend that money. With this bill, that person could be in a position where their rent has been paid directly to the landlord so that they're receiving just a small portion, depending on their rent, for their living expenses, their food etc. Then the overpayment is discovered. How will it work? I want some clarification about the way it will work. Will the welfare administrators then start figuring out a payment schedule with the recipient over the months, a certain amount will come off per month? Will they demand that it be paid right away?

Obviously where I'm going with this is I don't think anybody sitting around this table would want to see any recipients starve to death while they're paying off — I shouldn't exaggerate and say starve to death, but not have any food in their house or not be able to meet their medical requirements, their drug requirements, whatever, because they're paying off either in a lump sum or so much has been taken out of their monthly cheque that they have no money. I want to know how the government is going to deal with that.

Mr Carroll: I'll ask Allan to answer that question.

Mr Kirk: The overpayment would be recovered over a period of months from the basic financial assistance paid to the recipient, just as it is today.

Ms Churley: Is it the same for everybody, one size fits all, or would a schedule be worked out according to the requirements of the person involved?

Mr Kirk: The amount that will be deducted will be prescribed in regulation.

Ms Churley: It will be prescribed in regulation. Thank you.

The Chair: Any further comment on this particular section? All in favour of this amendment? Opposed? The amendment is defeated.

Shall section 19 carry? Opposed? This section is carried.

Section 20: Any discussion? All in favour? Opposed? That section is carried.

Section 21 —

Interjection: Carried.

Ms Churley: It will be, of course. Let's do the charade.

The Chair: We are in a predicament, Ms Churley, as you know, because your substitution slip is only till 11:45, so you are not legally in a position to be able to move the motion.

Ms Churley: Can I get the permission or the agreement of the committee to set aside these amendments and carry on? I expect my replacement, Ms Lankin, to be here any moment.

Mr Carroll: We don't have a problem to extend that until Ms Lankin arrives, if that's acceptable.

The Chair: I'm not sure we can do that even by unanimous consent. That's the problem. It's not a direction of this committee, it's a direction of the party, and we have no right to overrule that.

Ms Churley: I believe that's true. In the extension of your goodwill here, would the committee agree to set aside these NDP amendments until Ms Lankin arrives then?

Mr Carroll: How would we know where to start then?

The Chair: What we would have to do is stand down the sections until such time as Ms Lankin arrives and we would have to calculate how many we would —

Mr Preston: On a point of order, Madam Chair: Is it in order for us to recess now instead of at 1 o'clock and then come back? I can understand if we had a bunch of people here, but we're all the people who are here. Is it okay if we recess at 12 instead of 1 and then come back at 1 instead of 2? Is that in order?

The Chair: We can certainly have a motion to recess. Do you have any sense how long it will be before Ms Lankin comes? I don't want to recess until 2 if she is going to be here any earlier.

Ms Churley: She is supposed to be here any minute.

The Chair: Why don't we take a recess for 10 minutes until Ms Lankin arrives.

The committee recessed from 1150 to 1200.

he Chair: Ladies and gentlemen, we'll resume our clause-by-clause with section 21. Ms Lankin.

Ms Frances Lankin (Beaches-Woodbine): I move that subsection 21(1) of schedule A to the bill be amended by striking out "and the prescribed information concerning the decision" at the end and substituting "the reason for the overpayment and the basis for the calculation of the amount owing."

The Chair: Discussion?

Ms Lankin: The rationale for this amendment is that it puts the requirement to provide specific information about

overpayments in the legislation rather than leaving it to regulation and to easy amendment through order in council.

The Chair: Further debate?

Mr Carroll: The government's position is that it more appropriately belongs in regulation. Therefore we cannot support the amendment.

The Chair: All in favour of this amendment? Opposed? The amendment is defeated. Ms Lankin.

Ms Lankin: Schedule A, subsections 21(4) and (5): I move that subsections 21(4) and (5) of schedule A to the bill be struck out.

This removes the responsibility placed on one person for a spouse's overpayment. There is a concern that the bill as it now stands places victims of family violence in jeopardy.

Mr Carroll: The government's position is that in the case of the spouse being a member of a benefit unit, if there was an overpayment, they would have benefited from that overpayment, and as with other joint spousal debts, both spouses should be responsible for the repayment of the overpayment.

The Chair: All in favour of this amendment? Opposed? The amendment is defeated.

Ms Papatello, in view of the last two, this one is out of order.

Shall section 21 carry? All in favour? Opposed? Section 21 carries.

Section 22, any discussion? All in favour of section 22? Opposed? Section 22 carries.

Section 23. Ms Lankin.

Ms Lankin: I move that subsections 23(2), (3) and (4) of schedule A to the bill be struck out.

This removes the right of the government to garnish benefits because of family support obligations, students loans or other government debts. The rationale is that benefits are so low that garnishment would leave any individual destitute and would not accomplish anything under those circumstances.

Mr Carroll: The government's policy is that there should be a provision for the collection of child support and government debts, to some extent, from assistance paid to recipients.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

The next motion is a Liberal motion. It's out of order as it's not appropriately worded.

All in favour of section 23? Opposed? The section is carried.

Section 24. Ms Lankin.

Ms Lankin: Schedule A, section 24: I move that section 24 of schedule A to the bill be struck out and the following substituted:

"Notice of decision

"24(1) Where the administrator proposes to refuse, cancel or suspend basic financial assistance, he or she shall give notice to the applicant or recipient together with the reasons for the decision.

"Same

"(2) If the decision is one that may be appealed under this act, the notice shall inform the applicant or recipient that the decision may be appealed, that an internal review must be requested before the appeal and how to request an internal review and an appeal."

The Chair: Comments?

Ms Lankin: Yes, if I may, Madam Chair. You will note that this amendment to this section is also echoed in when we get to schedule B, as the provisions in both acts are the same. This would require that, where support is refused or cancelled, notice and reasons are required. It's an opportunity to provide individuals with some upfront information, the reasons that the decision has been taken, and what route they have available to them to take action, if the decision is appealable. It must let them know if the decision is appealable and explain how they go about requesting that appeal. We believe that this is just something in terms of due process that provides more appropriate information to the individual and gives them a better sense of their rights and the options that are available to them.

The Chair: Further discussion?

Mr Carroll: I would like to have the staff clarify this particular issue. It's a little more technical than some of the others and maybe they could clarify it for me.

Mr Kirk: The section as it is drafted in Bill 142 talks about giving notice where an administrator makes a decision that is appealable and advising the applicant or recipient that it can be appealed and that they can request an internal review.

The amendment that's being proposed talks about "where the administrator proposes to refuse." A proposal does not constitute a decision, and section 24 as it's drafted now covers the issues.

Ms Lankin: Could I ask for clarification? I understand the point you're making around the wording here in terms of "proposes to refuse." In a technical reading, I think you're probably right on that.

Section 24, as it is now set out, accomplishes the goals of providing notice and advising the right of appeal, but it doesn't set out the requirement for reasons of decision to be provided to the recipient, does it?

Mr Kirk: If the administrator is giving notice of a decision that is appealable, then they would give reasons for the decision. As it happens, today they generally will quote the section of the act or the regulations upon which they're basing the decision.

Ms Lankin: With that technical explanation, Madam Chair, if I may, I'll withdraw this amendment.

The Chair: Thank you. Mrs Papatello.

Mrs Papatello: I move that section 24 of schedule A to the bill be struck out and the following substituted:

"Notice of decision

"24(1) Where the administrator proposes to refuse, cancel or suspend benefits, he or she shall give notice to the applicant or recipient together with the reasons for the decision.

"Internal review process

"(2) The recipient shall have access to the internal review process including but not limited to

"(a) the right to know the details surrounding the request for an internal review;

"(b) disclosure of information relevant to the allegations against the recipient;

"(c) the right for the recipient to present his or her case; and

"(d) the right to be accompanied and assisted by counsel or another third party.

"Notice

"(3) If the decision is one that may be appealed under this act, the notice shall inform the applicant or recipient that the decision may be appealed and how to request an appeal.

"Benefits

"(4) The recipient shall continue to receive benefits until a decision is made under subsection 25(3)."

Mr Bert Johnson: On a point of order, Madam Chair: The member is going too quickly. I can't follow that. I was wondering if she would slow down a little bit.

Ms Lankin: I remember asking you something very similar to that at one point in time.

Mr Bert Johnson: And I slowed down.

The Chair: I would ask all members to deal with the matter as they wish. Mrs Papatello.

Mrs Papatello: I would like to point out specifically the final couple of lines, "The recipient shall continue to receive benefits until a decision is made —"

The Chair: Mrs Papatello, if I may: It's not so much that you're speaking fast, it's that you're not speaking into the mike and I think that may cause some of the difficulty.

Mr Tom Froese (St Catharines-Brock): I can't hear.

The Chair: It's very difficult even for me to hear.

Mrs Papatello: As you know, I'm fairly quiet so I usually have to force myself to speak up. In any event, I would like to point out that in particular our concerns surround the internal review process and what the applicant is entitled to in terms of information. While the ministry outlines what is again in regulation, we would prefer to have that in the bill.

1210

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 24 carry? All in favour? Opposed? Section 24 carries.

Section 25: Any discussion? All in favour of section 25? Opposed? Section 25 carries.

Section 26.

Ms Lankin: I move that section 26 of schedule A to the bill be struck out and the following substituted:

"Decisions which may be appealed

"26. Any decision of an administrator affecting eligibility for or the amount of basic financial assistance or relating to the appointment of a person to act for a recipient under section 17 may be appealed to the tribunal."

The Chair: Discussion?

Ms Lankin: I'm just trying to locate this in my notes here. Together with other amendments which delete cer-

tain sections, this would allow all decisions to be appealed. That's the goal, what we're attempting to achieve.

Mr Carroll: Specifically, this amendment would allow decisions regarding 16- and 17-year-olds to be appealed, which is contrary to the government's intention and would allow other decisions such as rate changes, discretionary benefits and so on to be appealed, which again is against the government's intention. For those reasons, we are opposed to this particular amendment.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment is defeated.

Mr Carroll: I move that section 26 of schedule A to the bill be amended by inserting after "decision" in the first line of paragraph 5 of subsection (2) "made under subsection 17(2)."

This amendment would maintain the non-appealability of a decision on the appointment of a trustee for a person under the age of 18 years receiving Ontario Works where there is no guardian of property or trustee for the recipient. It's consistent with the government's intentions.

The Chair: Discussion? All in favour of this amendment? Opposed? The amendment carries.

Mrs Pupatello: I move that paragraph 8 of subsection 26(2) of schedule A to the bill be struck out.

This is yet again one more example of a prescribed decision with certainly not enough information and far too much authority to be placed in regulation.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 26, as amended, carry? Opposed? The section is carried.

Section 27.

Mrs Pupatello: I move that subsections 27(2) and (3) of schedule A to the bill be struck out and the following substituted:

"Same

"(2) The request for internal review must be made within 30 days, with the possibility to extend with cause, as requested by the recipient.

"If review requested

"(3) If the applicant or recipient requests an internal review, the review shall be completed in the prescribed manner and within 30 days, with the possibility to extend, with cause as requested by the recipient."

Our reasons for that are simple. We had a number of pieces of information come to us at the hearing process that outlined the difficulty with time, being identified, information by mail etc, and there should be an opportunity, with cause obviously, for extensions of that process.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment is defeated.

Ms Lankin: I move that section 27 of schedule A to the bill be amended by adding the following subsections:

"Rights on review

"(5) An administrator shall ensure that before making a decision on an internal review, the applicant or recipient,

"(a) is informed of the case he or she must meet on the review;

"(b) receives any information of the administrator that may affect the internal review; and

"(c) is given an opportunity to make submissions to the administrator on the review.

"Same

"(6) An applicant or recipient has a right to be accompanied and assisted by counsel or a third party on an internal review.

"Assistance

"(7) In a review of a decision to reduce a recipient's assistance, the administrator shall restore the amount of assistance to the amount the recipient received before the decision, pending completion of the internal review.

"Completion of review

"(8) An internal review shall be completed within 10 days after it is requested."

Essentially, this is a bit different, but it attempts to achieve a similar goal as Ms Pupatello's amendments. It is adding basic procedural protections into the review. Clause (a) is the right to know the case that one must be expected to meet; (b) is the right to disclosure of information relevant to the allegations against the recipient; and (c) is the right to present one's case. Subsection (6) is the right to be accompanied and assisted by counsel or a third party with respect to what we've heard.

I think these amendments provide a greater sense of procedural fairness, which is what we're looking for, and the right for individuals, both with counsel and assistance, to have the greatest opportunity to know and meet the case, and also the provision to ensure that while that internal review is done someone is not suffering in terms of the benefits. Also there's a time limit put in there to try and ensure that we have an expeditious process, which I think, particularly given our suggestion that benefits be maintained during that period of time, would recognize that this would be of interest to the government as well as to the recipient applicant.

Mr Carroll: The internal review process is intended as a very quick, informal reassessment of the case for the benefit of the recipient or the applicant and is not intended to have a lot of structure to it so it would get bogged down and take some time. This particular amendment, as we understand it, would formalize that process.

We think it would act against the best interests of the recipient, so therefore it goes exactly against our intention with the internal review process, that it be quick, informal and a chance for somebody to give a second opinion on the original decision that was made. We see this as too formalized and too much structure, and would actually cause the process to get bogged down again at a step that's not intended to be anything other than a quick review by somebody who wasn't part of the initial decision.

Ms Lankin: Can I just say, Mr Carroll, that I think the concern for the people looking at this is that — even if it's a different person, I recognize the point you're making, but you have an internal process of reviewing an internal decision. In order for individuals to have some sense of confidence in that, there has to be a certain amount of due

process and a sense of natural justice, which includes issues of disclosure and right to representation.

If that is to be a useful step, it has to have the opportunity for the person to provide information to the individual who's conducting the review that might sway their decision, that might affect their decision. Knowing the case you have to meet and having the opportunity to have disclosure of that information and therefore representation to meet that case could make that a useful internal review, as opposed to being seen by the outside as potentially becoming a rubber stamp.

I think of other systems where we've had this. The internal review through the workers' compensation system is a very good example, where it was so discredited over a period of time that it actually led to the creation, finally, of the independent appellant body, the appeals tribunal. But even at that point there was a change in the procedure within the internal review which allowed for disclosure of information, case files and representation at that level, which has effectively meant that many more issues — percentage-wise, not necessarily a majority — are actually resolved at that level, where the experience before that was that it was simply a rubber-stamping process and no one had any faith in it.

1220

Mr Carroll: The intention here is to have much more resolved at that level, to prohibit the need to go on to the more cumbersome, expensive, time-consuming tribunal model, and if it doesn't accomplish that, then I agree with you that it has not been successful. We think, the way it's constructed now, it will accomplish that, it will allow a second look at decisions made by an administrator, to be reassessed by someone else, and it will in fact ensure we're making good decisions at the primary level on behalf of the recipient and therefore eliminating the need for such a backlog at what is currently SARB and what will be the Social Benefits Tribunal.

I think our objective is the same. We think we're going to get there this way. I guess only time will tell us for sure that we will get there this way. I agree with you that our objective is to sort out many more of the disputes at the internal process rather than go on to a more sophisticated process. Hopefully what we've done will achieve that. Allan, do you have any other comment to make on that?

Mr Kirk: We've actually had an internal review process in place at the municipal level for about five years now, since 1992-93, and it seems to be working quite well.

Ms Lankin: There's a dispute about that.

Mr Kirk: The intent here is that we'll continue that.

The Chair: Further debate? All in favour of this amendment? Opposed? The amendment is defeated.

Shall section 27 carry? All in favour? Opposed? Section 27 carries.

Section 28.

Ms Lankin: I move that subsection 28(1) of schedule A to the bill be struck out and the following substituted:

"Appeal to tribunal

"(1) An applicant or recipient may appeal a decision of an administrator within the prescribed period after an internal review by filing a notice of appeal."

The substance of this amendment allows for an extension of time to request an internal review and takes out "that shall include reasons for requesting the appeal." The concern here is that individuals at an early stage may not have counsel or advice at that point in time and that it is a barrier to being able to file the appeal and to receive disclosure and start to do the work to prepare a case, that it's too technical a requirement for most recipients who may choose to become appellants and that there is lots of time in the process for the case to be developed and put forward and it shouldn't become a barrier to being able to successfully file an appeal.

Mr Carroll: The government's position is that the integrity of the review process should include a reason for the request for the review, and that allows all the parties to the review to then in fact know on what basis the review is being granted. So we think it is important that some reason for the appeal be included in the original request. There should be some responsibility on the person asking for the review to say, "I'm appealing this decision because," rather than, "I'm appealing this decision." So we think it'll make for better appeals and better preparation for all parties to deal with the appeal and therefore we believe that it should stand the way it is.

Ms Lankin: I would like Mr Carroll to point out to you that I raised similar arguments that you just put forward with respect to section 24 — "Notice of decision. An administrator shall give notice to the applicant or recipient of a decision that may be appealed" — and requested that the words "and reasons be given" be inserted into section 24. The response I got was: "It's not required. Of course we'll give reasons. It doesn't have to be in the legislation." Interesting double standard that you're applying, that the administration does not have to provide reasons for the decision but appellants have to provide reasons for their appeal.

Mr Carroll: I guess I might just respond to that by saying that I believe the comment was made that it is common practice to provide reasons for the decision at the original level and —

Ms Lankin: And, Mr Carroll, it is common practice for ordinary people to say, "I'm appealing because I think this is unfair or I think you missed this information." That's common practice too. You are creating a different standard of legal requirement in the way in which you are treating the administrators of the plan and the way in which you are treating recipient appellants. I don't understand why.

Mr Carroll: I don't see it as unfair to expect somebody who's going to appeal a decision to give the grounds on which they are going to appeal the decision.

Ms Lankin: And I don't think it's unfair to expect an administrator who has made a decision to give the grounds on which that decision is based.

Mr Carroll: And I understand that they do.

Ms Lankin: And I understand most people who would write an appeal would probably give their reasons. I think you can't defend what is, in drafting, an obvious — "oversight" is probably the gentlest way of doing it. You're creating different standards. It's staring you right in the face that one doesn't have to provide a reason and another does. It seems to be like they're different standards for the two parties to the appeal. It stems from I think a punitive approach that's being taken here.

I recognize what will happen with the suggested amendment. I just wanted to have on the record the obvious double standard and contradiction in approach.

The Chair: Further comments? All in favour of this amendment? Opposed? The amendment is defeated.

Mrs Pupatello: The following motion is similar, except for the information regarding the prescribed time period.

I move that subsection 28(1) of schedule A to the bill be struck out and the following substituted:

"Appeal to tribunal

"28(1) An applicant or recipient may appeal a decision of an administrator by filing a notice of appeal."

I think we've had discussion on this already and I won't be surprised in terms of the outcome of the voting on this motion.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment is defeated.

Ms Lankin: I move that subsection 28(9) of schedule A to the bill be amended by striking out "as prescribed" at the end.

The amendment gives the appellant an opportunity before the hearing to examine any written or documentary evidence that the administrator proposes to introduce at the hearing.

Mr Carroll: This idea is a bit technical, so I'm going to ask the staff to explain how this process works.

Mr Kirk: The reason we have "as prescribed" in subsection 28(9) is so that all the parties to the hearing have sufficient time in order to review the material before the hearing. So "as prescribed" allows us to, by regulation, designate a number of days, for instance, that the parties would have to have in order to review the submissions.

The Chair: Further comments? All in favour of this amendment? Opposed? The amendment is defeated.

Mrs Pupatello: This is the same, so I'm presuming the outcome is the same.

The Chair: All right, withdrawn.

Ms Lankin: I move that subsection 28(10) of schedule A to the bill be struck out and the following substituted:

"Written or documentary evidence

"(10) The appellant shall be given an opportunity before the hearing to examine any written or documentary evidence that the administrator proposes to introduce at the hearing."

Mr Carroll: The current act states that the parties to a hearing have that right, so we believe all administrators should also have the right to examine any evidence that will be filed by the appellant. This amendment would restrict that from happening.

The Chair: Any further discussion? All in favour of this amendment? Opposed? The amendment is defeated.

Ms Pupatello: I take this as the same amendment.

Mrs Pupatello: The same.

The Chair: So, withdrawn.

1230

Ms Lankin: I move that subsection 28(11) of schedule A to the bill be struck out.

This is with respect to the issue of onus. The current subsection (11) says, "The onus lies on the appellant to satisfy the tribunal that the decision of the administrator is wrong." The reason for striking this out is that we do not believe there should be an onus placed on the recipient. This is an issue where there is an ability for a decision to be taken based on the facts of the information that is put forward. There is no comparable section in the current law that I'm aware of. I don't know exactly what the government is trying to achieve in terms of this section. It would appear to be a barrier of sorts in terms of a level of onus, a degree of what must be achieved in order for a recipient's case to be successful. We think it is onerous and should be deleted altogether.

Mr Carroll: The administrator has made a decision. We believe that the responsibility to prove that it was a bad decision or to prove a case for the appellant is the responsibility of the appellant. The administrator has made their decision. We believe as government policy that the responsibility to prove a different case on the part of the appellant is the responsibility of the appellant.

Ms Lankin: Could you explain what effect in law this onus will have? It must have an effect on the process; otherwise you would not have introduced this concept. This is a higher yardstick they must get over? What effect will it have on the proceedings and on individuals seeking appeals?

Mr Carroll: I honestly don't know the answer to that. Is there a legal determination? Does that change the legality of the issue?

Ms Marilyn Marshall: I think the intent of the section was to clarify that in the appeal process itself the onus would be on the appellant to prove the decision wrong.

Ms Lankin: Let me ask you then, just so I understand, what the practical effect of that might be. In other administrative law examples that I can think of, there is a responsibility, for example, for a counsel of the administrator to review and provide information, and it's in a fairly neutral way and it can be of assistance to an appellant in that situation. When you have an onus clause like this, does it not immediately set up the appellant in opposition to the administrator, and the administrator, having once made a decision, therefore no longer has any responsibility to seek out information, check out information that may substantiate what an appellant is saying, and it leaves that responsibility to the individual, who may not have access to all of the internal workings and documentation etc? It seems to me that it is almost a presumption that the state then moves back and says, "You're on your own out there trying to figure this out, dealing with us, the bureaucracy."

Ms Marshall: Part of the process regarding the appeal itself will be dealt with in the rules and processes which the Social Benefits Tribunal will establish. That will include a number of matters dealing with the evidence and the manner in which submissions are made, that type of thing.

Ms Lankin: This is an unusual clause, so it must have meaning, there must be a reason the government has sought to place this clause in legislation, beyond some kind of assumption that they should have to prove their case. There must be something in law behind this section, and I think before you all vote on it, it is reasonable for us to have a full explanation as to what the impact will be. How does this vary from other pieces of legislation? Where is it similar and where is it different, and what is the effect of it?

Mr Carroll: Is there any place for a little logic in this? I'm not sure that there is. If a decision has been made and a person disagrees with that decision and then wants to appeal it, do you not believe the responsibility lies on that person to prove why they believe it was a wrong decision?

Ms Lankin: It would obviously lie with that person, the responsibility to state the reasons why, to bring forward whatever they can to fight their case, to win their case. I understand that. But you don't write legislation, Mr Carroll, just picking some of these legal terms out and putting them in because, well, it's up to the person to prove it. Yes, but what does it mean in law?

There are other statutes and processes that don't have that requirement, and therefore at some point in time some lawyer is going to come forward and compare processes and statutes and say, "This is here for a reason. Legislators put this in for a reason. It means something in this system when it isn't in other systems, and therefore it is higher" — different, whatever adjective you want to use. It will get defined, and it will have life.

Before the lawyers out there determine what it is, it should be quite clear that the government knows exactly why it's putting it in and what its effect is intended to be, what the intent of the legislation is. I haven't had anyone who has been able to explain why you're putting it in this legislation when it is not in current legislation or in other appeal processes. Isn't it logical that you should be able to explain why this legislation and not other similar appeal processes?

Mr Carroll: The only thing I can suggest is that other than to clarify whose responsibility it is to prove their case, I don't know any other reason why it's in there. I will certainly undertake to try to get some additional reasons why it's in there. But the idea that it's in there to clarify, that the responsibility to make the case in an appeal is on the part of the appellant, I don't have a problem with that particular reasoning, and therefore I would recommend that we go ahead with the section. I will undertake to try to get some more information surrounding that that would explain it, but there may not be another explanation other than the fact that it's the responsibility of the person who believes the decision was wrong to make a case to the appeal tribunal.

Mr Preston: The fact that it's in there, as an appellant I can say, "I think your decision is wrong." "Why?" "Just because." That puts the administrator in the position of having to say why he's not wrong. In other law, there are a number of places where the onus is on the government or the legal system to prove somebody is wrong. In probation it's reverse onus; it's up to the person to prove that he should be let out. This says very clearly, "If you think we're wrong, tell us why." I think it's just as simple as that. Other than that, you say, "Your decision is wrong." "Why?" "Because it's wrong." That puts the administrator in a position of having to prove why he made the decision. That's not the idea. The idea is: "You think he's wrong? Prove it." If that clears it up any.

Ms Papatello: I would just like to confirm with the ministry that in this case, with that being in the law, when it is being heard the ministry does not have to advance any information at all and the appellant would have to advance information, and a decision would be rendered. You could conceivably go through a process where the bureaucracy would not advance any information and that would be fine. Is that correct? Because the onus is not on the administrator.

Mr Kirk: That doesn't mean that the administrator or the director doesn't have to make a submission to the tribunal. As Mr Preston said, it's simply that the onus is in fact in this case on the appellant.

1240

Ms Lankin: The layperson's view of this is, I think, who can argue with the fact that a person coming forward in an appeal is going to put their case forward and try to convince the tribunal that they're right and that the administrator made a decision? In that case, the layperson's view of it, there isn't a lot of concern.

But this is a piece of legislation. This is going to be interpreted and worked with primarily by lawyers representing individuals or paralegal staff who have developed some expertise in dealing with the particular administrative law we're talking about. That clause is going to have to mean something to the tribunal. At some point, as they're judging the case that's before them, the case that's put forward by the administrator and the case that's put forward by the appellant, they have to make a decision whether or not one side or the other is right with respect to the cases they're putting forward.

The fact that there is an onus clause, I'm not a lawyer, but I suspect it must mean something in law and that it must be a higher barrier of proof. I want someone to explain to me what the difference would be with respect to how the tribunal operates and views the evidence, because we've heard there's going to be disclosure of information, both parties are going to put forward their cases, everything is the same as we go through here and now we're at a decision point. Subsection (11) means something with respect to how the tribunal decides the case based on the evidence before it. I think it places a higher level of something, of proof, of evidence, of something, on the recipient. I'm trying to understand what the impact of that would be.

I'd like to ask the Chair her opinion. I don't know if she is able to as Chair, but she is a lawyer and she has done work in this area. I have not got a full answer from legal counsel or technical staff from the ministry at this point in time. I don't know whether you can respond, Madam Chair.

The Chair: In terms of what knowledge I have, I could respond, but as Chair I cannot. So I will have to leave it to the parliamentary assistant and to the legislative staff.

Mr Carroll: Could I make a suggestion that we stand this particular section down? I understand your concerns, and if we haven't dealt with them properly to convince you of what we're trying to do here, then I think we have a responsibility to get some more information.

Ms Lankin: I'd really appreciate that, Mr Carroll. That would be helpful.

Mr Carroll: So we could stand that section down?

The Chair: Very well. Mr Preston, do you still want to say something?

Mr Preston: No. I was just going to go over onus and reverse onus to try to clarify the onus part of it.

The Chair: All right. We'll stand this section down till after lunch? Tomorrow?

Mr Carroll: Yes. Well, till —

The Chair: As soon as we get an answer.

Ms Lankin: Thank you very much. I appreciate that.

The Chair: Section 29: Any discussion? All in favour of section 29? Opposed? The section is carried.
Section 30.

Ms Lankin: I move that subsection 30(1) of schedule A to the bill be amended by striking out "will" in the fourth line and substituting "may."

Let me just find the section itself in the bill.

"The tribunal may direct the administrator to provide the prescribed interim assistance to an applicant or recipient if the tribunal is satisfied that the person will suffer financial hardship during the period needed for the tribunal to complete its review and give notice of its decision."

This provides a lower standard or lower barrier for the tribunal in terms of how the tribunal comes about making a decision on whether someone absolutely will suffer financial hardship. We are proposing that it should be a softer level or a lower barrier for a decision and that it should be provided where the tribunal feels that the person may suffer financial hardship.

Mr Carroll: The position of the government on this is that changing the wording from "will" to "may" would allow the tribunal to give assistance to some people who may not need it. We believe there is a requirement that the tribunal is satisfied that the person will suffer financial hardship, not may suffer financial hardship.

The Chair: Further comment? All in favour of this amendment? Opposed? The amendment is defeated.

Shall section 30 carry? All in favour? Opposed? The section is carried.

Section 31.

Ms Lankin: I move that section 31 of schedule A to the bill be amended by adding the following subsection:

"Reasons

"(1.1) The tribunal shall give reasons for its decision."

If you look at subsection 31(1), you'll see that it deals with, in the event of an appeal, what the tribunal may do. It sets out that they may deny the appeal, they may grant the appeal, they may grant the appeal in part or they may refer the matter back to the administrator for reconsideration.

This amendment would add a subsection that suggests the tribunal shall give reasons for its decision. Again, as the bill is set out, it's not necessary for the tribunal to provide reasons, and we think they should. We're dealing with an individual's rights under law, the final level of appeal. Reasons should be set out. There are potential implications for other routes of remedy. We think it should be incumbent upon the tribunal to provide reasons for their decision.

Mr Carroll: The current procedure, as I understand it, is that reasons are given. The Statutory Powers Procedure Act supports that position, so we don't see this as being necessary. We believe this will happen as a result of the application of the Statutory Powers Procedure Act, and it is currently the practice to give reasons for decisions.

Ms Lankin: But it's absolutely necessary to write into legislation that the applicant for an appeal must write their reasons for the appeal.

Mr Carroll: Quite frankly —

Ms Lankin: Jack, just say yes.

Mr Carroll: I don't think this is necessary, but if it makes you feel more comfortable, I don't have a problem supporting it. But we don't think it's necessary under the current system.

Ms Lankin: I would feel a lot more comfortable having that in the legislation. So if you're prepared to support it, that's great.

The Chair: All right. All in favour of this amendment? Opposed?

Mr Preston: A unanimous one.

The Chair: Shall section 31, as amended, carry? All in favour? Opposed? This section, as amended, is carried.
Section 32.

Ms Lankin: I move that section 32 of schedule A to the bill be struck out and the following substituted:

"Recovery of interim assistance

"32. Where the tribunal dismisses an appeal it may order that any interim assistance paid in excess of that to which the appellant would have been entitled under the tribunal's order be repaid and the amount of that excess shall be deemed to be an overpayment."

Maybe Mr Carroll would like to go. I've got to cross-reference this back to the legislation to explain it right now.

Mr Carroll: Our problem with this particular amendment is that the tribunal does not have any power to dismiss an appeal. It has to rule on an appeal by denying it, granting it, whatever; it does not have the right to dismiss an appeal. This amendment deals with where the tribunal dismisses an appeal, so we therefore believe the amendment is just inappropriate.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Papatello: I don't suppose the Chair would like to change my amendment as submitted from "dismiss" to "deny" so that we could have a discussion on that?

The Chair: I think we have to deal with the amendment as it is before us. You're saying it's withdrawn?

All in favour of section 32? Opposed? The section is carried.

For section 33, both of the motions from the opposition are out of order. They're recommendations as opposed to motions.

1250

Ms Lankin: They're out of order because they're recommendations to vote against section 33, that's why?

The Chair: Yes, as opposed to wording to delete or to amend.

All in favour of section 33? Opposed? Section 33 is carried.

Sections 34 and 35: Any discussion? All in favour of sections 34 and 35? Opposed? Sections 34 and 35 are carried.

Section 36.

Ms Lankin: I move that subsection 36(1) of schedule A to the bill be amended by striking out "of law" at the end and substituting "that is not a question of fact alone."

Currently subsection 36(1) reads, "The director and any party to a hearing may appeal the tribunal's decision to the Divisional Court on a question of law."

That is very restrictive in terms of what grounds the appellant may take forward and appeal to a higher level of court or to Divisional Court and seek leave to appeal. It provides that it must only be if the court is of the opinion that an error in law has occurred. There exists now in the system an opportunity for an appeal where it may be mixed fact and law or on the legal issues alone, as is set out here. We think it should be broader and allow for that possibility, and that's the reason behind our amendment.

Mr Carroll: In the government's mind, this amendment is not acceptable, because existing provisions of Bill 142 which allow for an appeal on matters involving a question of law are consistent with a number of other Ontario statutes.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment is defeated.

Mrs Papatello: I move that section 36 of schedule A to the bill be struck out and the following substituted:

"Reconsideration

"36(1) The tribunal may, upon the application of any party, reconsider and vary any decision made by it after hearing the parties to the proceedings in which the original decision was made.

"Appeal to court

"(2) The director and any party to a hearing may appeal the tribunal's decision to the Divisional Court on a question that is not a question of fact alone."

This is on a similar intent as was just mentioned.

Mr Froese: On a point of order, Madam Chair: Maybe I'm in error, but there was an NDP amendment, number

34 at the top, and then there was 35. What are we dealing with now, 35A?

The Chair: It's 34A.

Mr Froese: I don't have 34A; I'm sorry.

The Chair: We'll endeavour to get it to you as quickly as we can.

Further comments? Seeing no further comments, all in favour of this amendment? Opposed? The amendment is defeated.

Shall section 36 carry? All in favour?

Mr Bert Johnson: On a point of order, Madam Chair: What happened to the one that said 35 at the top?

The Chair: Which 35? The hand-written 35?

Mr Bert Johnson: Yes.

The Chair: That's a new section called 34.1. It will come immediately after our vote on 34.

Mr Bert Johnson: No, number 35 at the top.

The Chair: Yes. That's the one I'm referring to.

Mr Bert Johnson: That's a new section?

Mr Preston: It's 36.1.

The Chair: It's 36.1; I'm sorry.

Mr Bert Johnson: Oh, all right. It's a new section.

Interjections.

The Chair: Just a second. The confusion arises because the page numbers don't necessarily correspond to the motion numbers. We have dealt with sections 34 and 35 together. There was no discussion. We voted on them. We are now voting on section 36. We will then move to a new section, 36.1, which does not depend on section 36 for passage. Does that explain the situation? No, Mr Johnson, you're still not with us?

Mr Bert Johnson: No. It's regarding schedule A, subsection 36(1). I have another one that says schedule A, section 36.1.

The Chair: Yes, they're two different sections.

Mr Bert Johnson: So 36.1 and 36(1) are different?

The Chair: That's right. They're two different sections.

Mr Bert Johnson: I can understand that.

The Chair: Okay. Thank you. All those in favour of section 36? Opposed? Section 36 is carried.

We now move to 36.1. Actually, it's 1 o'clock, and seeing that it's 1 o'clock and perhaps to alleviate some of the confusion that may have arisen, we'll recess until 2 o'clock.

The committee recessed from 1256 to 1404.

The Chair: Ladies and gentlemen, we're back in session. We left off at 36.1, page 35 in your binders. Ms Lankin.

Mr Preston: What does 36.1 mean?

The Chair: Mr Preston, 36.1 means a new section, and you know that. I think we all know that now.

Ms Lankin: I move that part II of schedule A to the bill be amended by adding the following section:

"Rights adviser

"36.1 An applicant or recipient has the right to be accompanied by counsel or any other third party in an appeal to the tribunal or to the court."

It's fairly straightforward. This is a new section that would be added to the act, as opposed to amending any existing section. It gives the appellant the right to be accompanied by a rights adviser or a third party. We are specifying in particular rights advisers. This is a section which is repeated in the disability section of the act as well and we're proposing the same amendment to both sections so that as people would be given information around their rights of appeal, they would be notified of that as well. It gives them an opportunity to get counsel and/or if not to get counsel to be able to get a rights adviser.

The Chair: Discussion?

Mr Carroll: If I may, Madam Chair, the Statutory Powers Procedure Act is very firm in this regard and provides for counsel. So there is no need for this particular amendment.

Ms Lankin: One of the problems with respect to that, as someone who is out there who is a recipient who's not going to necessarily know all the niceties of the law and administrative law, if they even try and look at this act they'll find some sections of the act where the Statutory Powers Procedure Act doesn't apply, like the internal review. It won't be obvious to them that it would apply to the tribunal. They may well not have a clue what it would mean even if it did apply. If it's not offensive in that it is a right that you believe the tribunal will necessarily have to follow as a result of the Statutory Powers Procedure Act, then it seems to me, particularly when you're dealing with a group of people who have few resources and little opportunity to, up front perhaps, seek independent advice about what their rights are, what they can or can't do — but it is helpful that at least the legislation sets that out. I think that would therefore then become part of notice and information when an administrator, for example, provides information of their right to appeal and how they go about doing it.

If this section is in the act, then I think it would probably form part of that information to the person, as we know that internal review process is not subject to the Statutory Powers Procedure Act.

I don't think it harms. I don't think it becomes redundant in any way, because it's simply stating what you say would be the person's right, but it's the primary piece of legislation that they're dealing with. This is in many cases a disadvantaged group of people and the more we can be specific so as to inform them of their rights, the better that would be.

Mr Carroll: Just a final comment under the other section, where I agreed with you when it came to the giving of reasons. The Statutory Powers Procedure Act may be subject to a little bit of interpretation in that area, so I agreed with you that it wouldn't hurt to put that in. In this particular case, our position is that it is really totally redundant and there's no reason for it to be included.

Ms Lankin: Why would it be harmful to have it in, to let the person know what their rights are clearly? Most ordinary folks don't even know that there is a Statutory

Powers Procedure Act, let alone what it's there for and what it means.

Mr Carroll: I guess it's not harmful in so much as it is redundant; it's not required.

Ms Lankin: Is it not required for the individual to know within the piece of legislation you're dealing with that that's part of their right? It's very hard for me to understand how a social benefit recipient would know what their entitlement is under the Statutory Powers Procedure Act. That's a big reach, that an ordinary person would know that.

Mr Carroll: I don't work in that area, but I'd be surprised if somebody made an appeal to the tribunal and wasn't aware of the fact that they had the right to counsel under the Statutory Powers Procedure Act. I'd be surprised if that happens.

1410

Ms Lankin: Can I ask you to think about the client population that the administrators of this act will be dealing with. There's a broad spectrum of society, no doubt, that falls within the client group, but there are certainly people who I think you would acknowledge have been marginalized in many ways in their life, and I think it's a real stretch to assume that these rights would be apparent to them.

We'll come back to section 28(11), but when you're talking about the kind of onus that you're putting on people and recipients here, anything we can do that sets out clearly what their rights are and what help they can get and where they can get — if it's part of the act, I presume that it will then become part of the kind of information that is provided to the individual; it's much more likely to become part of that information.

If it's not harmful in any way, if it doesn't confuse any issues, it seems to me it's a much clearer intent stated on the part of the Legislature and it is a helpful provision to ensure that people who may be disadvantaged for a number of reasons are able to claim and exercise full rights. I would think when you're up against all the powers of the state in the circumstances, the decision having been made by the administrators on behalf of the province of Ontario, we should be bending over backwards as legislators to ensure that individuals can access information about their full rights and therefore are able to exercise them.

Mr Carroll: I might just ask a question. Is it standard procedure that rights under the Statutory Powers Procedure Act are spelled out in other acts? Is it standard procedure that that happens?

Ms Marshall: I don't know that it's standard procedure, but I don't think that it's common practice to repeat provisions which are contained specifically in a statute such as the Statutory Powers Procedure Act.

Ms Lankin: Would you say there is no legislation that sets out people's right to counsel in the legislation or right to rights advisers?

Ms Marshall: I could not say there are no such statutes because I haven't done a search for that. But I do know, generally speaking, where there is a provision in the Statutory Powers Procedure Act, it says it applies unless

another statute provides to the contrary, so it's quite clear in the regard.

Ms Lankin: I would think, Mr Carroll, the issue that we need to be judging here or looking at is the client group that this particular piece of legislation deals with. There are all sorts of administrative law tribunals where the Statutory Powers Procedure Act apply and where people are regularly in that forum represented by legal counsel and it's all quite obvious.

I think here we're dealing with a different situation where you're talking about the province having the vested responsibility to interpret the act, to make decisions under the act with respect to an individual's eligibility. The individual having the onus on them, if that amendment passes, to prove that the government in fact has done it wrong. That's a significant burden placed on the individual. You're dealing with a client population among whom there are a number of people who I think we could agree have, for various unfortunate reasons, been marginalized in society and may not have the kind of knowledge that others would rely on to assume what their rights were. I don't see that it hurts. I don't see that it's harmful. I think it can be particularly helpful, given the client group that we're talking about.

It strikes me that as legislators, whether or not it's something that happens regularly in other pieces of legislation, we have the responsibility to ensure that we are trying our best to have balance and fairness in this legislation and meet the needs of the community that's affected. I would argue strongly that we should consider this.

Mr Carroll: Just a final comment on it, because obviously this is an area that you and I are probably going to disagree on, I don't believe that the client group you're talking about will read the act, so whether it's included in there or not included in there would be irrelevant to them because they won't read the act. Those who are advising them will know the benefits available to them under the Statutory Powers Procedure Act.

The current process does not stipulate it. We do not believe it's necessary in the new one, so for that reason we are opposed to the amendment.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is defeated. Section 37.

Mr Bert Johnson: How about 36?

The Chair: We've done 36. We did it before we did 36.1. Is there any discussion?

Mr Bert Johnson: That's fair enough. The amendment did not add to it.

Mr Preston: So there is no 36.1 now.

The Chair: That's right.

Is there any discussion on section 37? All in favour? Opposed? The section is carried.

Section 38, Mr Carroll.

Mr Carroll: I move that subsection 38(1) of schedule A to the bill be struck out and the following substituted:

"Delivery agents designated

"(1) The minister may by regulation designate a municipality, band or prescribed board as a delivery agent for each geographic area to exercise the powers and duties of a delivery agent in that geographic area."

This is a housekeeping issue too because the original provision did not allow the minister to designate a band to deliver the program. That's to make up for that oversight.

The Chair: Further discussion?

Mrs Papatello: Given the amendment that the government is putting forward, does it still allow for a private firm to be the delivery agent?

Mr Carroll: I don't know that this amendment deals with that.

Mrs Papatello: I realize that, but would it be your interpretation that a prescribed board could then be described as a private firm? I realize there are more specifics in another section, but has the changed wording altered any of that?

Mr Carroll: No.

Mrs Papatello: So the possibility is still there?

Mr Carroll: Yes.

Ms Lankin: A question on that: I understand and support very much the inclusion of "band" within this section, but the other change is that you changed the wording from talking about a "district social services administration board" to a "prescribed board."

Mr Carroll: The reason for that, as I understand it, is that there are two new entities that are possible under Bill 142: district welfare area boards — no.

Interjection.

Mr Carroll: District social service accessory boards and area service boards are new possibilities under the act. Maybe Allan could explain it more.

Mr Kirk: We have listed the district social service administration board, but right now there's discussion with northern municipalities as to whether they want to form something called an area service board rather than a district social service administration board. The change in the language allows either one to be designated.

Ms Lankin: Thank you for that information.

The Chair: Further discussion? No. All in favour of the amendment? Opposed? The amendment is carried.

All in favour of section 38, as amended? Opposed? The section, as amended, is carried.

Sections 39 to 44: We've not received any motions. Is there any discussion with respect to those sections?

All in favour of sections 39 to 44? Opposed? Those sections are carried.

Section 45: I believe we have a motion from the NDP. That is out of order for reasons we've explained with other motions of this kind.

Ms Lankin: Madam Chair, section 45, as I follow along, is the section where the government is allowing the contracting out of delivery of services. That's why we had recommended voting against that section. But I take your advice that it is out of order.

The Chair: It's out of order none the less.

All in favour of section 45? Opposed? The section is carried.

Sections 46 to 57: Any discussion? All in favour of those sections? Opposed? Sections 46 to 57 are carried.

Section 58, Ms Lankin. This is also out of order.

Ms Lankin: But section 58 deals with the eligibility of review officers. It sets out that "the director and administrator may designate persons as eligibility review officers," and we think there are problems with this particular provision, which again is why we had recommended voting against it.

The Chair: I understand, but it's not a motion for us to consider in any form. Subsection 58(2)

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Mrs Papatello: I move that subsection 58(2) of schedule A to the bill be struck out and the following substituted:

"(2) An eligibility review officer may investigate a person's eligibility for payments under this act, the Ontario Disability Support Program Act, 1997, the General Welfare Assistance Act, the Family Benefits Act and the Vocational Rehabilitation Services Act in accordance with subsection 7(3)."

I would point out to the members that the difference specifically deletes the area of authority to apply for and act under a search warrant. After much consideration and discussion with various municipalities who mete out their welfare fraud units, there was much agreement on the part of front-line workers that this is not an authority that is required; in many cases not wanted. There is no training that is guaranteed to individuals that could substitute the lengthy training required by police officers through the police college to eventually appropriately make application and act under a search warrant.

In fact because this clause is currently included, it does cause some concern that it places what in essence are social workers in very unsafe circumstances. As some of those social workers and their representatives have indicated that, I also believe there is right now a methodology. If it is not working, it has more to do with the lack of funding for police services at local levels than it does the principle of social workers being police agents and in fact carrying out the work of police. If something truly is fraudulent, it is then within the purview of the police officers in that area to take care of it.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 58 carry? All in favour? Opposed? The section is carried.

Section 59. This is an NDP motion and again it's out of order, Ms Lankin.

Shall section 59 carry? All in favour? Opposed? The section is carried.

Section 60. Any discussion? All in favour? Opposed? The section is carried.

Section 61. Ms Papatello.

Ms Lankin: Madam Chair, you're on page 39A?

The Chair: Yes, we are.

Ms Lankin: I'm just looking at 39A and 40, and they appear to be the same. I'm just wondering why they are in

a different order than all the other ones that we have dealt with so far. Was one submitted earlier?

The Chair: It's just the way it was submitted, that's right. We'll deal with that after we've done 39.

Ms Lankin: Okay. It's just that I thought all the ones on grey paper had been submitted later.

Mr Bert Johnson: Some were resubmitted.

The Chair: There's been a mixture of one or the other.

Ms Lankin: Fair enough. I just wondered. Thank you.

The Chair: There's no design intended to be seen.

Ms Lankin: I hadn't followed that they had been mixing back and forth, so I appreciate that explanation.

The Chair: Ms Papatello, section 61.

Mrs Papatello: I move that subsection 61(1) of schedule A of the bill be amended by striking out "subject to the conditions set out in the order" at the end.

That specifically would look at 61, "subject to the conditions set out in the order." We actually have trouble with the whole idea of a tribunal because we believe that it will be very much politicized and not seen as a separate entity and that those orders of appointment will simply be political ones.

Ms Lankin: Could I ask a question? Perhaps the parliamentary assistant or ministry staff could respond. It is normal practice for members of tribunals such as this to be appointed through Lieutenant Governor in Council orders? I am not aware that it is normal to have this additional provision which Ms Papatello seeks to have struck out, "subject to the conditions set out in the order." There is a sort of standard process for setting out in the order in council itself the length of appointment, the remuneration with respect to the position, those sorts of things, but why is this in the legislation?

Mr Carroll: As I understand it, it's to allow those conditions to be spelled out.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

The next amendment is the same, so it would be withdrawn. Ms Papatello, sub (3).

Mrs Papatello: I move that section 61 of schedule A to the bill be amended by adding the following subsection:

"Term of office

"(3) Each member of the tribunal shall hold office for three years."

This is at minimum some attempt, depending on what conditions are set out in the order, that there would be some kind of closure on that. That's the intent of this addition.

The Chair: Comments?

Mr Carroll: The government thinks that putting the term of office in the statute is too restrictive and that it should be allowed for in the order-in-council appointing the member. That's where the term of office would be more appropriately defined.

The Chair: Very well. All in favour of this amendment? Opposed? The amendment is defeated.

All in favour of section 61? Opposed? The section is carried.

Section 62: All in favour?

Clerk of the Committee (Ms Tonia Grannum): There's an amendment.

The Chair: To section 62? Oh yes, so there is. My apologies. It's written in a slightly different version here.

Ms Lankin: Just looking at this, I think there might be a typo here; it might actually refer to subsection 61(3). Let me just check.

The Chair: It's identical to the amendment that Ms Pupatello put forward under section 61(3).

Ms Lankin: I think actually we're dealing here with a typo. It should have been section 61(3). I'm going to withdraw it.

The Chair: Very well. All in favour of section 62? Opposed? Section 62 is carried.

Sections 63 to 67: All in favour? Opposed? Those sections are carried.

Section 67.1:

Ms Lankin: This adds a new section to schedule A, section 67.1: I move that schedule A to the bill be amended by adding the following section at the beginning of part V:

"Ministry review

"67.1(1) The director shall ensure that within three years after section 2 is proclaimed in force, an objective review of the provision of employment assistance is carried out.

"Same

"(2) The review shall be carried out by an objective third party and shall consider,

"(a) the design of programs relating to employment assistance;

"(b) expected outcomes from those programs; and

"(c) an evaluation of the outcomes of those programs.

"Same

"(3) The review shall be completed within six months after it is initiated.

"Same

"(4) The minister shall table the report of the review with the Legislature upon receipt of it."

The intent of this amendment is to create a section that would govern a review of the employment program provisions. The program of workfare, as I think all of us would acknowledge, is controversial in its design and in the opinion of whether or not it will be successful. There have been many versions of this attempted in various jurisdictions, some more successful than others.

The concern we're trying to address is that we believe, given the controversial nature of it and given whoever a government is at a particular point in time, there's not only a desire for this program to work but there's a desire for it to be seen to work. Therefore, there's a lot of pressure that any internal review of the program produce results which are complimentary to the program.

We believe it's so important that we are able to assess whether the program is working and whether or not there are amendments to the program or other provisions that are required that it's essential that there be an independent review, an objective review, so that all of us as legislators are getting good information with respect to the perform-

ance of the program and what changes may or may not be required. That's why we set out both that it be an objective review and we set out in the new section what the review will consider, including the design, the outcomes, so that we have something we're measuring against and evaluating those outcomes.

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We don't think that it should be lengthy and costly. We're putting a time limit on it. Six months after the review starts it should be reported out, so that it's done in an efficient manner, and that the minister table it in the Legislature so that we all have the results of this review and we are able as legislators then to comment on and/or discuss or debate appropriate changes or give laudatory comments if that's what is warranted at that point in time.

Mr Carroll: I don't disagree with Ms Lankin's premise that as a government we have a responsibility to evaluate whether or not programs we are putting into place are working. I think and the government thinks it is unacceptable to enshrine that in the statute. I think there are processes in place, whether it be through Management Board or through each ministry's business plan process, that cause us to evaluate how effective different programs are. As we roll out Ontario Works across the province, it's incumbent upon us as a ministry and as a government to ensure that in fact the program is working.

What you're suggesting, I understand, is an important part of what we do, but I think the current processes in place already allow and in fact insist that the ministries evaluate their performances on programs they introduce. For that reason, we believe the amendment is not necessary.

Ms Lankin: There are a couple of points I would like to explore a bit further with you in terms of your response. I wish I could remember the example at this point in time; I believe it was when the Liberals were in government. I know there was a controversial bill in which the Conservative caucus at the time pushed for and got an amendment that would cause a review to take place, and for the life of me I can't — I'm sitting here and trying to pull it back and I can't remember what it is.

This is not a precedent that we're setting here in terms of putting a statutory requirement for a review and/or a report to the Legislative Assembly, which is another important part of this that I would ask you not to gloss over, because there can be all sorts of reports that are to the minister. The results of those reports are only available to the Legislature through what the minister is prepared to tell you in answering questions. Having been on both sides of the House, I suggest there are times, particularly with a program that is very high profile politically, that the minister is going to obviously need for the sake of her government to put forward this program in its best light.

I also think that's the reason for something which starts off as controversial as this, which is a new experience in Ontario and which has very mixed results in other jurisdictions, to have an independent review as opposed to an internal ministry review. I think we desire and deserve to have that objective evaluation and one which will be

reported out to the Legislature so that the contents of that are in the public domain.

Mrs Pupatello: I have to speak in support of this NDP motion. If committee members recall, and particularly subcommittee members, when we started out on the public hearing process, the minister was very intent to take the first 20 minutes of our time at the Toronto hearings specifically to right the wrongs of misconception that had been apparently put out there by the opposition members in terms of the success of workfare so far. What we heard at that time was that we were reporting to the communities that workfare so far had been a failure. The minister was very intent on correcting that, even though statistically nothing of her report could be verified. The truth is that to date the program has not worked and has led to a significant intimidation factor on the part of the government.

I would think, given the government's wanting to succeed on anything the government's done to date in two and a half years, the area of workfare would be one that it should not be afraid of an independent process meant to say ultimately that it's an absolute bonanza. We would question that this might in fact be the review, but if anything, if there's any area the government would love to say has worked, even by an independent review, workfare would be one of those things. I can't imagine politically why a government would not want a review of this kind of program, which according to government members is the jewel in their crown.

The Chair: Further comments? All in favour of 67.1? Opposed? The motion is defeated.

Section 68, Ms Lankin?

Ms Lankin: I move that section 68 of schedule A to the bill be struck out and the following substituted:

"Notice

" 68. If notice is given by mail, it shall be presumed to have been received on the third day after the day of mailing unless the person to whom notice is given did not, through absence, accident, illness or some other cause beyond his or her control, receive the notice until a later date."

Section 68 in part V as it is currently written simply says that if notice is given by ordinary mail, it should be deemed to be received on the third day following the date of mailing. That's quite a standard provision in many quasi-judicial procedures, and it is to set, on a basis of reasonableness, the time by which a person would have received that, and it often then starts kicking other time clocks that when someone receives something, X number of days later if they're going to do something about it, they have to take action.

In this case, the amendment we've put forward gives an "unless," a proviso, and recognizes that within the client community that we're dealing with, with respect to this legislation, there are particular barriers that individuals face. For example, the individuals may be transient. Some individuals will have more difficulty accessing regular receipt of mail than others, for a number of reasons. It may be as a result of periods in and out of hospitalization. There are a number of barriers in this community.

This is not a carte blanche, but it sets out that where there are reasonable grounds and a person can show when they actually received the mail, they wouldn't lose their other rights that are somehow governed by a clock clicking in on that third day after the notice has been sent. It gives a bit greater discretion, but it does have some standards in it and it talks about some other cause beyond his or her control. If it is simple negligence on the part of an individual, then they would not meet the standard. We're not trying to open it up completely. We understand the need for deadlines and for process to have some structures around it. What we're trying to do is recognize the particular barriers of many people in this recipient community.

Mr Carroll: I understand your concerns there. Quite frankly, I don't think the government has any intention of trying to be punitive of somebody. The time for requesting an internal review will of course be spelled out in the regulations, and that can certainly include a provision for granting extensions when there are extenuating circumstances. So I don't disagree with the points you made.

Ms Lankin: Is that a commitment that will be addressed specifically in regulation?

Mr Carroll: I don't know that I'm in a position to commit what regulations might say, but our intention is that administrators would have the ability to not be onerous on somebody when something happened that they don't have any control over. I think only common sense would prevail there.

Ms Lankin: If you're using those words "common sense," then I expect that I will see them in the regulation.

Mr Carroll: A bad choice of words. Let's go for "logic." What you're explaining, what you're describing —

Ms Lankin: I've actually come to the conclusion that the two aren't the same any more as well, Mr Carroll.

Mr Carroll: I understand what you're saying and I think it's good that it is on the record, because I don't think we want to make it difficult for somebody in circumstances that they don't have any control over.

Mr Preston: Is that going to include somebody whose mail takes five days continually? I disagree with three days, by the way. I've stated that before. I disagree with three days being deemed delivered in Cayuga, and most times in Toronto. Of course, we don't have anybody on welfare in Cayuga, but that doesn't matter. Three days is not to be deemed delivered, in my opinion. Is this leeway going to be —

The Chair: Go ahead.

Mr Preston: I thought you got the answer already. Is this leeway in the regulations going to account for that, somebody who gets mail from Toronto in five days rather than three?

Mr Carroll: I'll have Allan explain that to you.

The Chair: Go ahead.

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Mr Preston: Oh, I thought you had got the answer already. Is this leeway in the regulations going to account

for that, somebody who gets mail from Toronto in five days rather than three?

Mr Carroll: I'm going to let Allan explain that to you.

Mr Kirk: Yes, that would be an example where we would expect an administrator to accept that as a reasonable reason for allowing an extension. We would expect the same of the Social Benefits Tribunal, which can also extend the time for a hearing as long as there's a reasonable reason for doing so.

The Chair: Any further comments? All in favour of the amendment? Opposed? The amendment is defeated.

The next one, Mrs Papatello, I think is identical, so we'll withdraw it.

Shall section 68 carry? All in favour? Opposed? Section 68 is carried.

Section 69, all in favour? Opposed? Section 69 is carried.

Section 70, Mr Carroll.

Mr Carroll: I move that section 70 of schedule A to the bill be struck out and the following substituted:

"Subrogation

"70(1) If a person suffers a loss as a result of a wrongful act or omission of another person and if, as a result of the loss, the person receives assistance under this act, the director or delivery agent is subrogated to any right of the person to recover damages or compensation for the loss.

"Same

"(2) A proceeding may be commenced in the name of the director or delivery agent or in the name of the person who suffered the loss.

"Same

"(3) A claim under this section shall not exceed the total of,

"(a) the costs incurred as a result of the loss for past assistance provided to the person;

"(b) the costs likely to be incurred as a result of that loss for future assistance;

"(c) the costs incurred as a result of that loss for social assistance provided under the General Welfare Assistance Act, the Family Benefits Act or the Ontario Disability Support Program Act, 1997, or assistance under the Vocational Rehabilitation Services Act by the person responsible in each case for administering that act; and

"(d) the costs incurred as a result of that loss under a prescribed statute.

"Same

"(4) An applicant for or recipient of assistance shall forthwith notify the director or the delivery agent, as the case may be, of any action brought against a person to recover damages or compensation for a loss referred to in subsection (1)."

The rationale for this: The amendment clarifies in whose name proceedings may be brought. It also ensures that the right to recover public funds is broad enough to include damages or compensation arising out of breach of contract situations. This provision also ensures the ministry's or delivery agent's right to be subrogated to a person's claim for any damages or compensation.

The amendment requires an applicant or recipient to notify the director, the delivery agent, of an action taken against the party who caused the loss suffered by the applicant-recipient. In addition, clause 70(3)(d) allows for the recovery of claims ordered under another statute.

Ms Lankin: A question, Mr Carroll: The last subsection, 4, which requires the applicant to provide notice to the director or the delivery agent of any action brought against a person to recover damages, how do you expect recipients will be aware of their obligation to provide notice to a director or delivery agent in such circumstances?

Mr Kirk: In instances of subrogation the recipient is generally represented. This subsection is actually more to put counsel on notice that they should be letting us know when they're bringing an action. As we said earlier, it's unlikely that recipients would necessarily read and understand the statute, but we certainly expect their counsel would. This is to enable us to find out when such actions are under way.

Ms Lankin: Counsel may well not be aware of their client's status with respect to receipt of social assistance.

Mr Kirk: My experience in subrogation issues is that they are very aware.

Ms Lankin: Why is the onus here then not on the counsel, as opposed to the individual recipient?

Mr Kirk: I don't believe we can put the onus on the counsel.

Ms Lankin: So your expectation is that the counsel is going to be responsible for this, but the law says that the individual, who Mr Carroll pointed out earlier on won't likely read the legislation, has to be aware of this.

Mr Kirk: That's right.

Ms Lankin: It's another onus on the individual then, isn't it?

Mr Kirk: That's right.

The Chair: Any further comments? Discussion? All in favour of the amendment? Opposed? The amendment is carried.

Shall section 70, as amended, carry? All in favour? Opposed? This section, as amended, is carried.

Section 71, Mr Carroll.

Mr Carroll: I move that subsections 71(7) and (8) of schedule A to the bill be struck out and the following substituted:

"Personal information disclosed

"(7) A body under paragraph 4 of subsection (1) may disclose personal information in its possession to the director or to a delivery agent if the information is necessary for purposes related to their powers and duties under this act.

"Confidentiality provisions in other acts

"(8) Subsection (7) prevails over a provision in any other act, other than the Freedom of Information and Protection of Privacy Act or the Municipal Freedom of Information and Protection of Privacy Act, that would prevent such disclosure."

This amendment responds to requests made by the Information and Privacy Commissioner and provides neces-

sary authority for disclosure by a third party, which may or may not have a statutory provision in its governing legislation preventing such disclosures. This amendment clarifies that the privacy legislation continues to apply.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment is carried.

Mr Carroll: I move that section 71 of schedule A to the bill be amended by adding the following subsection:

"Accuracy of information

"(12) The director and each delivery agent shall take reasonable measures to seek assurances that information collected under this section or section 72 is accurate and current."

By way of explanation, this amendment responds again to the request of the Information and Privacy Commissioner, and it provides increased assurance that the data collected by the director and upon which decisions affecting eligibility are made are accurate and current.

The Chair: Discussion? All in favour of this amendment? Opposed? This amendment is carried.

Shall section 71, as amended, carry? Opposed? This section, as amended, is carried.

Section 72, any discussion? All in favour of section 72? Opposed? The section is carried.

Mr Carroll: I move that schedule A to the bill be amended by adding the following section:

"Sharing of information

"72.1 The minister, the director and each delivery agent may share with one another and with the director under the Ontario Disability Support Program Act, 1997 and any persons exercising the director's powers and duties under section 39 of that act personal information in their possession and collected under this act, the Ontario Disability Support Program Act, 1997, the Family Benefits Act, the General Welfare Assistance Act or the Vocational Rehabilitation Services Act if the information is necessary for the purposes related to their powers and duties under this act or the Ontario Disability Support Program Act, 1997."

This amendment is necessary to provide specific authority for personal information related to OWA, ODSP, GWA, FBA or VRSA to be shared between the minister and director and each delivery agent under the Ontario Works Act for the proper administration of Ontario Works or Ontario disability support plan.

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The Chair: Comments? All in favour of section 72.1? Opposed? Section 72.1 is carried.

Section 73: Both the NDP and Liberal motions are out of order.

Ms Lankin: I just want to ask the parliamentary assistant, with respect to this section of the act, section 73: Our amendment is out of order because it is a recommendation to vote against this section, which is another way of saying "delete the section." The section is about community participation: "Participation in a community participation activity or a prescribed activity under this act is not employment for the purposes of any act or regulation that has provisions regulating employment or employees, except as prescribed."

The concern is with respect to what rights or protections individuals have who are compulsorily participating in aspects of Ontario Works with respect to normal employment rights and/or protections. Do you have any comment on why you wouldn't want to see this particular provision continue in the act?

Mr Carroll: Are you concerned about what protections they might have under workplace health and safety and those kinds of things?

Ms Lankin: That could be an example, but I'm sure there are others.

Mr Carroll: Since I'm not totally versed on this, Allan, could you explain what protection you have. I know there are two statutes they're covered under.

Mr Kirk: Yes, the occupational health and safety and provisions of the workers' comp; they're covered under that.

Ms Lankin: What acts are they not covered under?

Mr Kirk: I'm not sure if I can list those. Can you help on that one?

Ms Marshall: No, I don't think we can start to give you an indication, because there are a number of them that relate to employment type of standards.

Ms Lankin: Surely you must be able to give us an indication because this section of the bill specifically precludes coverage under rights and provisions of pieces of legislation. You have something in mind; you must be able to tell us which ones.

Ms Marshall: Currently the guidelines in Ontario Works set out a number of the provisions from the Employment Standards Act dealing with hours in a day that can be worked, number of consecutive days, that type of thing. It's dealt with in the Ontario Works guidelines.

Ms Lankin: Right, so individuals are not going to be, for example, covered by the Employment Standards Act. That's one piece of legislation that would not apply to them.

Mr Carroll: As I understand, that's true. But Ontario Works has its own requirements in that area.

Ms Marshall: It has its own requirements.

Ms Lankin: Which may or may not be inferior to provisions of the Employment Standards Act. Mr Carroll, coming back to you, why does the government feel compelled to deny people who you are supposed to be helping in transition back into the workplace who are out there working under this program normal rights accorded to citizens who are in the workforce?

Mr Carroll: The most important rights, and we're not denying them, are the right to a safe workplace and the right to workmen's compensation if they are injured. The other qualification surrounding their Ontario Works placement are covered in the act as number of hours they would be required to work. There's no need for them then to be included in any other labour statutes. It's not employment as employment is normally considered.

Ms Lankin: I think that's the fundamental problem. In fact what the government has been telling people is that this is employment: "This is your way out of social benefits. This is your way back into the workforce." You cre-

ate a pool of workers who are being brought together and are engaging in what the minister argues is meaningful work in our society at substandard levels of benefit and/or rights, not affording them rights that are under other legislation. I appreciate that health and safety and compensation rights apply, but I would dispute with you that those are the most important. They're very important, but there are other important rights relating to employment that are set out in statute.

To me it's shocking to have a discussion where you can't even set out what are all the rights that are being taken away from these people. What are all the statutes now that they don't have access to? What has it been replaced with in Ontario Works and what's the difference? The government again has made a conscious decision. That information should be part of what is made available to explain the government's intent with respect to this.

I just want to make the point on the record that I think this is creating a second class of working citizens in Ontario. I think it is shameful to deny a group of people, because they are currently in the social assistance benefits stream — compel them to work in a program but deny them the same basic standard rights. I'm not suggesting that they should be covered by, for example, the collective agreements that may be in place in those workplaces. Those are superior to the basic standards that are in legislation, but to not even provide access to the basic standards in legislation I don't believe is defensible. I'll leave it at that.

The Chair: Thank you. Further comments? All in favour of section 73? Opposed?

Mrs Papatello: That motion is defeated, Chair.

The Chair: Unfortunately the motion —

Clerk of the Committee: It's a section of the bill.

Mr Bert Johnson: My hand was up.

Interjection: No, it wasn't.

Mr Bert Johnson: I beg your pardon, it was.

The Chair: I didn't see you, Mr Johnson. I looked over there for quite a while. I paused in between, precisely to give members an opportunity to raise their hands. Section 73 is defeated.

Mr Carroll: Madam Chair, there have been several instances during the day where you have waited a long time to acknowledge votes on both sides. You know what the intention was for this particular situation. I think it is an unfair position for you to take that you're going to change the process after we've been at this all day. In several instances you've waited a long period of time to acknowledge a vote on either side of the table. I don't know why at this particular point in time you would decide to change the process and say, "No, I'm going to rush this one through," or whatever. I take exception to your decision in this.

The Chair: In fairness, Mr Carroll, I didn't rush. I left no less time than I have on other occasions, precisely because I'm aware that this is very contentious legislation. Ms Lankin.

Ms Lankin: I agree that you did leave a lengthy pause there. I would suggest to Mr Carroll that it's unfair to place some burden of expectation on the Chair of what the committee members may or may not do. There was a point in time, particularly if we were having recorded votes, when all members were compelled to vote, but since the government has changed the rule and has allowed for abstentions, which is quite new, I think it's very difficult for the Chair to read the mind of committee members.

There have been a number of sections through this that I have not voted on and the Chair has not asked for me to vote one way or the other. Sometimes I have, sometimes I have not voted, and she has waited and then proceeded, and I assume has accepted that I chose to abstain on those sections. I don't think she should be expected to read the mind of any committee member beyond that.

Mr Carroll: If I could make one further comment, in my experience — and certainly, Ms Lankin, you and I have shared many times on committees — the Chair has accommodated what she understands to be the intention of the committee. I can recall situations when in actual fact the vote ended up the reverse of what the intention was and the Chair said, "Are you sure that's the way you want to do it?" I'm surprised that in this particular case a decision was made that we're into a hardball game.

The Chair: Mr Carroll, this is not a hardball game. I am trying to apply the rules as fairly as I can and trying to move the process forward. Frankly this could be a bill about anything and it would matter little to me. My objective here is to move the process along. I stopped twice to look over at the government members. No one raised their hands. I can't compel anyone to vote.

Ms Lankin, this will be the last because I do want to move on.

Ms Lankin: Very quickly, I just wanted to respond to Mr Carroll and say that the experiences he's referring to in committee are experiences that happened before the government changed the rule and allowed for abstentions.

Mr Carroll: Can I have a 20-minute recess, please, Madam Chair?

The Chair: A 20-minute recess?

Mr Carroll: Do I have the right to request that?

The Chair: Quite frankly, Mr Carroll, I'll be accommodating. I'll grant you a 20-minute recess.

The committee recessed from 1500 to 1515.

The Chair: We are back, dealing with section 74.

Mr Carroll: Madam Chair, I wonder if I could request unanimous consent that we reconsider section 73.

The Chair: Did you want to wait for Ms Papatello, just in case, or shall we proceed?

Mr Carroll: You started. I need to ask before we go on, so I'm in a position that —

The Chair: I'm happy to ask for unanimous consent. Is there such unanimous consent? There is no unanimous consent.

Mr Preston: On a point of order, Madam Chair: I was not here during the vote. I request that Hansard provide us with the terminology prior to the votes, including that one; your terminology prior to all the other votes and your

terminology prior to that one, so that I can understand what happened.

The Chair: They'd be delighted to provide you with that as soon as it is possible.

Mr Preston: Thank you very much.

The Chair: Section 74: I note that Ms Pupatello is not here, if we could hold off on those sections in 74 that deal with the Liberal motions and proceed to Ms Lankin.

Mr Froese: On a point of order, Madam Chair: I would like to know why we have to hold off if the member is —

The Chair: You don't have to; it's a suggestion. Ms Pupatello is here. Section 74.

Mrs Pupatello: I move that paragraph 3 of subsection 74(1) of schedule A to the bill be amended by striking out "who is eligible to receive the assistance and" in the fourth and fifth lines.

Mr Preston: On a point of order, Madam Chair: I question the fact that the Chair suggested we wait for Ms Pupatello to come back and you didn't suggest you wait for me to come back before that last vote. I question the balance there.

The Chair: I thank you, Mr Preston. Ms Pupatello is the mover of a motion. You're not the mover of a motion.

Interjections.

The Chair: Ms Pupatello.

Mrs Pupatello: I don't have any idea, at least not for the immediate moment, that this is going to pass anyway, but if you'd like I can withdraw it just to appease the member. What I'd like to do though is because the several that follow — 48C, 48D, 48E and 48F — I can discuss all of those now and can move them as a group, if you like, because they all relate to the same item and that is that under the powers of the Lieutenant Governor —

The Chair: You still need to read them all into the record, Ms Pupatello, if you intend to speak to them.

Mrs Pupatello: Okay, so I'll speak to this one now, moving this paragraph 3, subsection 74(1). By eliminating that one line, "who is eligible to receive the assistance," I believe that is yet one more area where there is an opportunity through regulation to change the very nature of eligibility for social assistance. Then you'll see, in the amendments that I've included following, we have attempted to take out every area where in regulation there is going to be yet another opportunity to put some other restrictive manner on who will receive eligibility. I feel it was the government's intent to make it very stringent up until that point and there's no need to continue to repeat it throughout, this power by the Lieutenant Governor in Council.

The Chair: Further discussion? All in favour of this motion, this amendment? Opposed? The amendment is defeated.

Mrs Pupatello: I move that paragraph 6 of subsection 74(1) of schedule A to the bill be amended by striking out "and determining who may be eligible for income assistance" at the end.

It is for all those same reasons mentioned earlier.

The Chair: Discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Pupatello: I move that paragraph 7 of subsection 74(1) of schedule A to the bill be amended by striking out "and determining who may be eligible for benefits" at the end.

It is for all those same reasons that have been mentioned.

The Chair: Discussion? All in favour of the amendment? Opposed? Defeated.

Mrs Pupatello: I move that paragraph 8 of subsection 74(1) of schedule A to the bill be amended by striking out "and determining who may be eligible for emergency assistance" at the end.

The Chair: Discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Pupatello: I move that subparagraph (ii) of paragraph 9 of subsection 74(1) of schedule A to the bill be amended by striking out "verification of that information" in the third and fourth lines.

If we go to that section, I believe that is more opportunity to have further stringent material included in regulation that doesn't need to be expanded on further.

The Chair: Discussion? Ms Lankin.

Ms Lankin: The next amendment which was put forward by our caucus is substantially the same as this amendment, so I'll speak to the Liberal amendment.

The concern that is being addressed here is that the Lieutenant Governor in Council can set out in regulation information to be provided and home visits. We agree with that portion of the legislation. In addition to that, however, this section, as it's written in the bill, talks about the verification of that information. We believe it is onerous to impose within the legislation and further by regulation a responsibility for the applicant to verify the information. The form in which that verification may be sought is not clear; that will be set out in regulation. It could require affidavit, legal implications, cost implications. We think the requirement to provide the information should be there.

There are other sections of the act which deal in terms of penalties and eligibility requirements if people have provided false information, but it is generally the responsibility of the administrator of the plan to verify. In fact in this section we're talking about home visits. That's one of the methods by which family benefits officers do verify information that has been given. So our intent in supporting this amendment and in putting forward a similar one is to delete the requirement for the recipient themselves to verify the information, because we believe it can be an onerous responsibility.

The Chair: Further comments? All in favour of this amendment? Opposed? The amendment is defeated.

The next one, I assume, Ms Lankin, is withdrawn?

Ms Lankin: Yes.

The Chair: Subsection 74(1), paragraph 11: Is that Ms Lankin?

Mrs Pupatello: Did we vote on that 48F, then?

The Chair: On 48F, yes, we did and we withdrew 49.

Ms Lankin: I move that paragraph 11 of subsection 74(1) of schedule A to the bill be struck out and the following substituted:

"11. exempting the prescribed income or assets from inclusion in the determination of budgetary needs."

The section 11, as set out in the bill, talks about prescribing classes of persons who are not eligible for assistance. This gives us tremendous concern. You're talking about providing a power to Lieutenant Governor in Council — in other words, cabinet — by regulation to exempt whole classes of people with just a stroke of a pen.

It seems to us that the issues around eligibility and the requirements that are needed to be met must be set out in the legislation and any classes of people who the government seeks to have excluded — and we've had discussions and debates about people dependent on addictions, for example, and how you feel they should be treated — should be set out in legislation. To give the power for any class of people, as opposed to an individual who doesn't meet the eligibility requirements, to be struck out by the signature of three cabinet ministers, which is all it takes to send something off to the Lieutenant Governor in Council, is a huge power being given to government and one that we find quite reprehensible.

The new paragraph which we have inserted exempts income and assets from inclusion in determination of budgetary needs, which is another issue that had been addressed I think a significant number of times during the hearings, so we've taken the opportunity to insert that in its place.

Mr Carroll: A couple of points on this: First of all, the government requires the authority to eliminate classes of persons, be they a class like prisoners, a class like single people eligible for OSAP. So the requirement to be able to designate and eliminate a class of persons is required.

As far as the consideration of income and assets under section 74(1)2 is concerned, there is the ability there under the regulations to take into account the income and assets, the maximum value of assets to be permitted. So what Ms Lankin is proposing with this amendment is already included, but it does eliminate a necessary authority to prescribe classes of people who are not eligible.

Ms Lankin: With respect to the new paragraph 11, we're suggesting which exempts prescribed income or assets from inclusion in determination of budgetary needs, it is not specifically included in 74(1)2. Paragraph 74(1)2 allows the Lieutenant Governor in Council to make regulations "respecting the determination of budgetary requirements, income and assets and the maximum value of assets permitted." It may or may not, in the wisdom of the government, include an exemption of a certain type of income or asset.

By including this we're trying to draw attention to the fact that we believe there are types of income and assets, and we're allowing that to be set out in a prescribed form in regulation, but there are incomes and assets which should be exempted from inclusion in a determination of budgetary need. It is different and it does provide for a

different opportunity or a different emphasis with respect to that issue.

I come back to an issue of eligibility. It seems to me that if there are whole classes of people who you believe are not eligible for the program, it should be set out in legislation. This is dealing with basic life sustenance for many people in this province and such a decision should not be left to three ministers of the crown to sign the back of a regulation and have that become, in effect, law, and affect whole classes of people.

The Chair: Further comments? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Papatello: I move that paragraph 11 of subsection 74(1) of schedule A to the bill be struck out.

The rationale for striking that out was covered by the previous amendment proposed that was defeated. Nevertheless, I need to be on record as being vehemently opposed to the opportunity for a very small number of people to make wholesale decisions in a closed-door fashion that could affect many, many people.

When the parliamentary assistant has attempted to explain why they would have a need for this sort of thing, the government has already needed to comment on why people in prison may still be getting cheques. The response to that was government ineptitude and lack of information crossing ministries, nothing to do with what is currently in regulation, that an individual who is in prison today would have their benefits cut, and cut by the amount that they know would no longer require assistance, but in fact their family members would still be receiving an amount, less the amount taken into account for the individual who is in prison.

Second to that, there are already individuals who are being moved off welfare assistance and put on to OSAP, and the government has managed to do that without a bill. So there is no need for both examples that the parliamentary assistant has given to require a prescribed class being set out by the Lieutenant Governor. I can only ask one question: if the parliamentary assistant would please give me an example that is currently not being done by regulation, because both examples so far the government has already been able to address without passage of Bill 142, which means you've managed to do it in other areas. Why do we need to keep putting this in this particular part of the bill?

Mr Carroll: As I've stated to Ms Lankin, the government does need the ability to eliminate classes of people. Those were two examples that I gave. If you don't like those two examples, that's fine, but those are two examples.

1530

Mrs Papatello: If you could please just give me some example of what other kinds of classes of persons. I can't think of any other class, and the two you've mentioned have already been covered by regulation changes and quite frankly likely by a system that was changed in 1994, not even by your own government, but that is being implemented now. But people are already moved on to OSAP. You haven't needed a bill to do that. Amounts

have been deducted from those who are in prison. You've done that already, without requirement of a bill. If I could just have an example of a class of person that currently is not covered, either by regulation or some other part of this bill.

Mr Carroll: The only two classes I have as examples — I don't know whether we have another example. Allan, do you have another example?

Mr Kirk: I don't have another example, off the top of my head, but in the examples you state are in place today, you still require the authority to do that. That's what this gives us, the authority to prescribe those classes of people who are ineligible. We have the authority today and that's how we are able to do it today, and we will continue to need to have that authority.

Mrs Pupatello: I just need to have on record very much a concern, given what has happened in the area of social welfare in a state like Michigan, having this kind of authority placed in the hands of a governor: a wholesale, outright dumping of single males of a particular age. Where they ended up in the state of Michigan was on the streets of Detroit, very obvious to someone like me who lives in Windsor, right across the border. I can tell you, I have a real fear that even if the government chooses to do it in this manner, behind closed doors, we'll only know about it after these people have been dumped on to the streets. I can't imagine any one of us being comfortable with that in this day and age. I've got real concerns about it. There are other ways to do it. It only leads me to believe that the purpose of this is to designate classes of persons we may not agree with, and perhaps some of you may not agree with, and quite frankly you won't know about it until it's too late.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Pupatello: I move that paragraph 14 of subsection 74(1) of schedule A to the bill be struck out.

That is powers respecting the area of liens, which we are opposed to. We view the whole area of liens as being contrary to an incentive to have people leaving social assistance. Once again we don't know what the extent of that power will be, given that it's being given to the Lieutenant Governor and therefore subject to just a couple of people in cabinet.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Ms Lankin: I move that paragraph 42 of subsection 74(1) of schedule A to the bill be struck out.

Paragraph 42 currently sets out that the Lieutenant Governor may make regulations "prescribing the powers and duties of eligibility review officers and family support workers and providing for the manner in which they shall exercise their powers and duties." You will recall that earlier on in the bill there were provisions establishing the right to appointment of eligibility review officers and family support workers which we had opposed at the time. Additionally, we were opposed to the type of police powers that have been set out for eligibility review officers. Some of those powers are currently set out in the legisla-

tion. We believe that all the powers should be set out in the legislation and should not be left for regulation. Therefore we are moving to strike this paragraph.

Mr Carroll: Just a point of clarification: We believe this provision is necessary so that we can, in regulation, limit the powers of eligibility review officers and family support workers.

The Chair: All in favour of this amendment? Opposed? The amendment is defeated.

Mr Carroll: I move that subsection 74(1) of schedule A to the bill be amended by adding the following paragraph:

"49. providing for the collection, retention, use, disclosure and safeguarding of privacy of personal information referred to in clause (3)(a)."

This amendment supports the transfer of regulation-making authority for the collection and use of biometric information from the minister to the Lieutenant Governor in Council to ensure that privacy concerns are addressed by cabinet. This amendment has the support of the Information and Privacy Commissioner.

The Chair: Discussion? All in favour of the amendment? Opposed? The amendment is carried.

Ms Lankin: I move that paragraph 3 of subsection 74(2) of schedule A to the bill be struck out.

That is under a section giving the minister, as opposed to the Lieutenant Governor in Council, regulation-making powers. Paragraph 3 allows the minister to make regulations, "prescribing policy statements which shall be applied in the interpretation and application of this act and the regulations." It strikes me there are other examples I can think of, Workers' Compensation is a good example, where the administrative body, in this case the ministry itself, seeks to set out the policy statements and bind other bodies which are further on, like the appellant body, with respect to interpretation of the act.

The act itself, I would argue, must be interpreted by an appellant body based on the arguments brought forward, precedents, general understanding of common law and a number of other matters that would come to bear. To have policy statements by the minister which have not gone through the cabinet, let alone through legislative debate, bind the interpretation of the act by an appellant body, is simply to say that the minister can determine absolutely every matter in this act by setting out a policy statement.

For example, if the appellant body has made a determination with respect to an interpretation of a certain clause around eligibility or something else and the minister doesn't like it, the minister can set out a policy statement which says, "You shall interpret this clause to mean this." There is no ability for that to come under public scrutiny. It doesn't even have the breadth of cabinet consideration, as I said, let alone of the Legislative Assembly. For those reasons, we believe that is far-reaching power and undermines the independent review of an appellant body, and therefore should be struck out.

Mrs Pupatello: We have submitted the same amendment and for the same reasons, we would agree that this should be taken out. What we are aware of is that the

administrators will indeed turn to their binder for reference on how to interpret what the law says. The difficulty is that this is one more way in which the minister will have ultimate power even in the interpretation by administrators. Given the difficulty for individuals to appeal, to have any kind of a decision rescinded or turned over, this only goes further in prescribing more and more power to the minister and less and less power to those who are going to be affected by it. So we, wholesale, support this amendment.

Mr Carroll: Just quickly, the government believes it is the essential authority of the minister to have and make binding policy statements to ensure the consistency and integrity of the program. For that reason, we cannot support this amendment.

1540

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

The next amendment is identical so you will withdraw it, Mrs Papatello? Thank you.

Mr Bert Johnson: Sorry, what was the disposition of the —

The Chair: It's identical, so it's withdrawn.

Mr Carroll: I move that paragraph 4 of subsection 74(2) of schedule A to the bill be struck out.

The reason for this is that this amendment supports the transfer of regulation-making authority for collection and use of biometric information from the minister to the Lieutenant Governor in Council to ensure that privacy concerns are addressed by cabinet. This amendment has the support of the Information and Privacy Commissioner.

The Chair: Thank you. Any discussion? All in favour of the amendment? Opposed? The amendment is carried.

Ms Lankin: I move that subsection 74(3) of schedule A to the bill be struck out.

Subsection (3) states:

"A regulation made under paragraph 9 of subsection (1) may include a requirement that a person,

"(a) provide evidence permitting identification of the person by means of photographic images or encrypted biometric information; and

"(b) provide personal information about a third party that is relevant to determining the person's eligibility."

This section is a permissive section with respect to moving into the area of fingerprinting as it is commonly called. It may be encrypted information, encrypted biometric information. It could take a number of forms.

The essence of it is the nature of tracking individual people by such things as a thumbprint, for example. It is offensive, to say the least. We are completely opposed to this concept. We believe in the integrity in the system, we believe in checks and balances to ensure the public is not being defrauded, but we do believe in supporting persons who are, at this point in time, without employment opportunities, supporting them and the welfare of their families through housing and food and clothing and basic necessities of life in a way that maintains their dignity. We find this extraordinarily offensive and cannot support it. Our recommendation is that it be struck out.

Mrs Papatello: I'd like to go further in this description, as we've made the same recommendation to have this subsection (3) deleted. While Ms Lankin spoke to (a), speaking to (b) just moves us as government into a whole new area here in providing personal information about a third party relevant to determining the person's eligibility. The difficulty I have is that we are putting people in a position to give information that may or may not put them in danger physically; safety issues, intimidation factors. For all of those reasons, I don't think it's appropriate that we include any part of subsection (3).

Mr Carroll: The government has put forward several amendments to deal with the issues of privacy, using biometric information to satisfy the concerns of the commissioner. We believe those offer protection and also believe that the government should have access to the latest technology if they choose to use it for the sake of improving the program for the people it serves. For that reason, we cannot support this amendment.

The Chair: Thank you. All in favour of this amendment? Opposed? The amendment is defeated.

The next motion is identical. Mrs Papatello, do you withdraw it? Very well. Ms Lankin.

Ms Lankin: I move that subsection 74(6) of schedule A to the bill be struck out.

Subsection 6 states "a regulation made under paragraph 17 of subsection (1) may provide for a period of ineligibility as a result of a person's conviction of an offence or crime in relation to the receipt of social assistance."

We believe that if there is a concern with respect to, for example, an overpayment or a receipt of funds they should not have been eligible for, a section on reimbursement that clarifies reimbursements only for money due or owing is the appropriate way to go.

To have a punitive section here in which a person could no longer remain eligible for assistance strikes us as being overly punitive. There could be a circumstance in which that person is very much in need, and irrespective of the problem that has occurred with respect to an eligibility offence, as long as the state has been made whole, the taxpayer has been made whole with respect to the other powers in this act to recuperate overpayments and to return to the appropriate state of eligibility, we think that is sufficient, that someone who is otherwise in need and would remain eligible under any way of looking at the individual should not be made ineligible simply because of the conviction with respect to the legislation.

Mrs Papatello: I would like to point out the inequity here in how we treat our criminals, I guess. Clearly in subsection (6), "as a result of a person's conviction" implies that these people will be forced to make some sort of restitution, that there will be some kind of penalty imposed when there is a conviction. Because of that, these people will be paying their restitution twice. Not only are they doing that through the conviction, but they will be penalized again by not being eligible for some period of time, and we don't know what that is.

We are aware that this is a double standard, and that simply doesn't happen in other parts of society. I cannot understand the logic in including subsection (6).

Mr Carroll: The section does read, "may provide for a period of ineligibility as a result of a person's conviction of an offence or crime in relation to the receipt of social assistance." We believe it is appropriate in the proper expenditure of taxpayers' dollars that the government have an option to apply a period of ineligibility to somebody who has been convicted of defrauding the system. It is the government's position. This amendment would reverse that government's position, so we cannot support the amendment.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Papatello, the next one is identical. I assume you'll withdraw it?

Mr Bert Johnson: I wonder how so many of these could be identical. Is there a service that you would have bought them from? I can't imagine that by coincidence it would not only be the same idea of subsection, but that the wording would be identical.

Ms Lankin: If this is of any assistance to Mr Johnson, to help explain the process, when we go through public hearings, all committee members listen to the same presentations that have been made. In this case the Liberal Party and the New Democratic Party have chosen to listen to the presenters and bring forward their ideas in terms of amendments.

There is a service from which we "buy," using the term loosely, the wording, and it's called legislative counsel. We all go to the same legislative counsel. You can, if you want to put an amendment through on your own, as can the opposition members. Legislative counsel draft the idea in the most appropriate legislative language for the appropriate section if you want to accomplish the idea.

So the process here is simply: Listen to the presenters, say, "This is what we want to accomplish," and legislative counsel says, "This is how you about doing it," which would explain the conformity of opposition amendments.

Mr Bert Johnson: Do I look like I believe that?

Mr Preston: Yes, you do.

Mr Bert Johnson: Well, I don't.

The Chair: Mr Preston.

Mr Preston: Just to flesh that out a bit, I can't understand why you would vote against an amendment that was brought forward by us from the committee hearings. You voted against it, and you say you're listening and vote for amendments that are brought forward. I can't understand that. It just doesn't seem reasonable.

The Chair: I'm not going to entertain much more of this. We're dealing with clause-by-clause, Mr Preston, not motives or why people —

Mr Preston: I was answering something that somebody else said. It's very nice that we got at least a parity this time.

The Chair: I appreciate that, Mr Preston. I think we're just going to move on, Ms Lankin, if you don't mind.

1550

Ms Lankin: But to add a point to the clarification, it is important and I will make it brief: I want to point out to Mr Preston that I voted in favour of amendments that came forward that had been presented by the privacy commissioner because those were things we heard at the hearings. Your blanket assertion is not correct.

Mr Preston: Madam Chair, may I?

The Chair: Yes, you may.

Mr Preston: It wasn't one regarding the privacy commissioner. It was one before that, which was very reasonable and was brought forward —

Ms Lankin: Which one was it, Mr Preston?

Mr Preston: I think Mr Carroll can tell me, but if not, I'll get back to you. You've been against everything except —

The Chair: Perhaps you could continue this discussion outside. Thank you very much.

Ms Lankin: I voted for some government amendments. *Interjections.*

The Chair: I think you will have much to discuss outside of this hearing room. Mr Carroll.

Mr Carroll: Schedule A, subsections 74(6.1), (6.2) and (6.3):

I move that section 74 of schedule A to the bill be amended by adding the following subsections:

"Apportionment of costs

"(6.1) A regulation made under paragraph 38 of subsection (1) may do one or more of the following:

"1. Authorize municipalities in a geographic area to determine by agreement how their costs are to be apportioned, subject to the prescribed conditions.

"2. Provide for an arbitration process for determining how the costs of those municipalities are to be apportioned.

"3. Set out the manner in which the costs of those municipalities are to be apportioned.

"Same

"(6.2) A regulation under paragraph 1 or 2 of subsection (6.1) may,

"(a) provide, on an interim basis, for the manner in which costs are to be apportioned and for the time and manner in which they are to be paid;

"(b) permit an agreement or an arbitration decision to apply to costs incurred and paid before the agreement or decision is reached; and

"(c) provide for the reconciliation of amounts paid on an interim basis.

"Same

"(6.3) Where a regulation under paragraph 3 of subsection (6.1) is retroactive, it may provide for the reconciliation of amounts paid."

Currently there is an impression among municipalities that the province will require separated cities and counties to share social assistance costs on the basis of assessment. A standard method based on assessment would mean that separated cities which would benefit significantly from that approach have no incentive to negotiate with counties

on consolidation of service delivery and would prefer to wait for the province to impose a solution.

The amendment indicates that other approaches also exist, such as arbitration, and that assessment should not be presumed to be the favoured solution. This provides incentives for municipalities to work towards a solution they can agree to. The province prefers locally generated solutions and does not wish to have to impose a solution.

Ms Lankin: I think, Mr Carroll, that I understand the intent. To be helpful, let me bring it to my own riding and jurisdiction, being within the Metropolitan Toronto area, or the new city of Toronto after January 1, and separated cities and/or regions around the GTA. For example, an issue of some kind of pooling of costs, would that be imposed by the government or would that be subject to a process of negotiation and potential arbitration as set out in this section?

Mr Carroll: Our hope is that municipalities, where they have the option to determine how costs are to be apportioned, will come to a local solution. In the act as it read before, there was an interpretation that equalized assessment would become the fallback position. That very definitely would set up a winner-loser situation and the winner would say, "I'm content to wait for the minister to make a decision, because when the minister makes the decision, we win."

We did not want to have that situation occur because that stops any local decision-making discussion. We wanted to create some uncertainty in here and ask municipalities to figure out the fairest way to share costs among themselves rather than have them sit back and wait for the government to do it for them.

Ms Lankin: Could you explain how this might or would or would not affect the issue of the GTA pooling, for example? Is that separate from this or would this provision —

Mr Carroll: I understand that is a separate issue, yes.

Ms Lankin: Is it?

Mr Carroll: This involves primarily separated cities and towns.

Ms Lankin: How is the GTA issue to be decided and enforced, then? Where do we see that?

Mr Kirk: This gives us the authority under subsection (3) to set out the manner in which the costs of municipalities are to be apportioned. There are three options laid out in this section: One is agreement, one is arbitration and one is that the province can intervene.

Ms Lankin: So sub (3) then is the authority by which the province could, for example, in the GTA say, "We're going to pool social assistance costs and the manner in which that's going to be done."

Mr Kirk: Yes. We also continue to have regulation-making authority in section 74, that talks about apportionment. These are additional sections.

Ms Lankin: Great. Thank you very much.

The Chair: Ms Papatello?

Mrs Papatello: My question is specifically related to the GTA as well, because there are separate cities within

that, that will be pooled. I think the ministry staff has made that clearer.

The Chair: Any further discussions? All in favour of this amendment? Opposed? The amendment is carried.

Shall section 74, as amended, carry? All in favour? Opposed? Section 74 is carried.

Mr Froese: Madam Chairman, with all due respect, are you not supposed to say, "Is the amendment carried?" and when it's carried, then we vote after, rather than go straight to the vote?

The Chair: I'm sorry, I'm not following you, Mr Froese.

Mr Froese: When you asked for the section, is it not the proper terminology, "Does the section carry," instead of going straight to the vote?

The Chair: I do both now out of abundance of caution, Mr Froese, because I wasn't sure the last time —

Mr Froese: With all due respect, you didn't do it this last time.

The Chair: Thank you for your views.

Sections 74.1 and 74.2, Mr Carroll?

Mr Carroll: I move that schedule A to the bill be amended by adding the following sections:

"Biometric information

"74.1 (1) Where this act or the regulations authorize a person to collect or use personal information, biometric information may be collected or used only for the following purposes:

"1. To ensure that an individual in registered only once as an applicant, recipient, spouse or dependent adult.

"2. To authenticate the identity of an individual who claims to be entitled to assistance.

"3. To enable an individual to receive and give receipt for assistance provided through a financial institution or other authorized provider.

"4. To enable an applicant, recipient, spouse or dependent adult to access personal information.

"5. To enable an individual to make a declaration electronically by voice or other means for any purposes authorized under this act.

"6. To match data in accordance with an agreement made under section 71 or 72 for the purpose of ensuring eligibility for assistance or benefits.

"Same

"(2) Biometric information may be collected under this act only from the individual to whom it relates, in accordance with an agreement referred to in paragraph 6 of subsection (1) or in accordance with section 72.1.

"Same

"(3) Biometric information shall not be disclosed to a third party except in accordance with,

"(a) a court order or a warrant;

"(b) an agreement under section 71 or 72 that is made for the purpose of ensuring eligibility for a social benefit program, including a social benefit program under the Income Tax Act or the Income Tax Act (Canada); or

"(c) section 72.1.

"Same

"(4) Biometric information to be collected from the individual to whom it relates shall be collected openly and directly from the individual.

"Same

"(5) An administrator shall ensure that biometric information can be accessed and used only by those persons who need the information in order to perform their duties under this act and that it is not used as a unique file identifier or common personal file identifier, except as authorized under subsection (1).

"Same

"(6) An administrator shall ensure that biometric information collected under this act is encrypted forthwith after collection, that the original biometric information is destroyed after encryption and that the encrypted biometric information is stored or transmitted only in encrypted form and destroyed in the prescribed manner.

"Same

"(7) Neither the director nor an administrator shall implement a system that can reconstruct or retain the original biometric sample from encrypted biometric information or that can compare it to a copy or reproduction of biometric information not obtained directly from the individual.

"Same

"(8) The only personal information that may be retained together with biometric information concerning an individual is the individual's name, address, date of birth and sex.

"Same

"(9) For the purpose of section 67 of the Freedom of Information and Protection of Privacy Act and section 53 of the Municipal Freedom of Information and Protection of Privacy Act, subsection (3) is a confidentiality provision that prevails over those acts.

"Electronic signature

"74.2(1) Where this act or the regulations require an individual's signature, one or more of the individual's personal identification number (PIN), password, biometric information or photographic image may be used in the place of his or her signature to authenticate the individual's identity and to act as authorization of or consent to a transaction relating to an application for or the receipt of assistance.

"Same

"(2) If a person collects an individual's personal identification number (PIN), password, biometric information or photographic image under this act, it shall be recorded and stored in a secure electronic environment."

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These two amendments respond to concerns raised by the Information and Privacy Commissioner that privacy standards concerning the collection, use and disclosure of biometric information should be enshrined in statute.

Ms Lankin: I have already placed on the record my objection overall to the collection of biometric information. I remain opposed to that. I will vote against this amendment. But let me say in the context of a government proceeding with the collection of biometric information, I think it is very important that the purpose for which it's

being collected and some constraints on how it is collected and how it is stored and with what it is stored and with whom it is shared are very important to be written in the legislation. I remain opposed to the whole concept, but I appreciate the specificity of these rules being placed in the legislation.

I wanted to ask a specific question with respect to subsection (3). Later on it indicates that subsection (3) is a confidentiality provision which prevails over the provincial and municipal freedom of information and privacy legislation. Subsection (3) indicates that the information shall not be disclosed, except in accordance with a court order or warrant or an agreement for a social benefit program, including programs under the Income Tax Act or the Income Tax Act (Canada).

I'm wondering if you could give me some examples. First of all, under what kind of case would a court order or a warrant seek this information, and what social benefit programs, other than perhaps CPP or old-age security — I don't know if that's what's referred to under the Income Tax Act, but beyond that, what other social benefit programs might require this information being shared?

Mr Carroll: Because of the technical nature of this area, I'm going to allow the ministry staff — Marilyn, would you answer that, please?

Ms Marshall: The provision dealing with a court order or warrant was one that was discussed with the privacy commission specifically. The types of circumstances would just be conjecture on my part, but presumably it could involve criminal proceedings where a court order might be obtained.

In the agreements under 71 and 72, specifically the Income Tax Act, there's a possibility that the child tax credit and programs such as that, which are very social benefit in nature but in the context of the revenue legislation, might also form the subject matter of an exchange of data.

Ms Lankin: Is this provision being set out as a confidentiality provision that prevails over the other two pieces of freedom of information legislation? Is this more strict than what would exist in terms of confidentiality protection under those two pieces of legislation, or is it more open? I'm sorry, I don't know how to compare the two.

Mr Kirk: It's stricter.

Ms Lankin: The reference in clause (3)(c) to section 72.1, just to save me from looking it up, what does that refer to?

Ms Marshall: That's the new exchange of information among the municipalities and the province delivering GWA, FBA and Ontario Works.

Ms Lankin: Thank you very much.

Mrs Papatello: In relation to this amendment, I'd like to ask the parliamentary assistant a question. In its use, are we making an assumption that all municipalities would at the same time engage in this kind of collection of data? It would seem that since there's so much of the amendment that has to do with transfer of information, we're making an assumption that every other jurisdiction is going to have the wherewithal to read the information.

Am I supposing, then, that if there's going to be some implementation of it, it would have to be across the board for it to be useful? For example, if only Metro Toronto chooses to use this system that is currently in pilot project form and not mandatory by its recipients — we still don't have the outcome of that pilot project. If a municipality in the area of, say, Wawa was going to use that kind of information and then the recipient moves to Windsor, unless Windsor and Wawa are both on the same information system, gathering and sharing is going to be difficult unless across the board in the province everyone is engaging in this collection and use of data.

I just have a general question. You've spent a lot of time on the amendments in this section, so you clearly see its requirement to be more stringent in its use, by introducing this kind of amendment. It just begs the question, how will we use this across the board when it's being administered by municipalities or delivery agents? How will you share them anyway, unless everyone in the delivery agent group is on the same system?

Mr Kirk: The plans at present are that everyone will be on the same system; all delivery agents will be on a single technology system.

Mrs Papatello: Further, that they would all enter the same system at the same time, as well? For example, if by 1999 or 2000, everyone will be on by then, you could suppose that as you grow towards that goal, you're going to have groups that are and groups that aren't on the system, at some point. It's not going to be immediate implementation by everyone on to the new system.

Mr Kirk: Yes, it will happen over a period of probably two or three years, but everyone will ultimately be on the same system.

Mrs Papatello: That leads me to my next question, which involves the use of this kind of information. When it was first proposed that we use this kind of system for means to prevent fraud, one of the areas that was pointed out by the government members was that when welfare recipients move to other areas, they can be collecting from Wawa and Windsor at the same time and hence there's fraud in the system.

You're going to have a period of three to four years, or whatever your goal is going to be, where the use of this kind of data isn't going to help you anyway in that kind of fraud, because everyone is not on the same system at the same time. So the very reason you launched to discuss it — this is not solving the real issue of fraud in terms of information-sharing appropriately and at the same time. Immediately you're going to incur an expense — not your expense — 50% shared by delivery agents, whoever that may be. They could well be looking at an immediate, huge increase of costs to administer a program, because you need to have everyone on at the same time for this to be useful.

Mr Carroll: I don't quite understand, but if you're asking, "Is this a panacea where we flip a switch tomorrow and everybody is up to speed?" no, it's not. But because it's not that, I don't believe we should stay with older technology and not move forward into something

that will, when it's fully implemented, benefit all the people involved.

The decision was made and the question was answered that it would take two or three years. The goal is that everybody would share the same kind of technology. Until everybody has exactly the same kind of technology — I guess there will still be some possibilities that all the right things won't happen, but that should not stop us from implementing the new technology.

The Chair: Further discussion? All in favour of 74.1 and 74.2? Opposed? Sections 74.1 and 74.2 are carried.

1610

Ms Lankin: Chair, I am seeking some assistance. I know the committee was aware our caucus had submitted a substitution form this morning which had me coming at 12 o'clock. In fact, I didn't know that; I thought I was coming at 2, but arrived, as you know, at a minute after 12. I had asked Ms Churley if it was possible, given I had picked up that extra hour, if she could come back for the last hour of this afternoon, the reasons being entirely personal. My mother is in the hospital and I left the hospital to get over here by 12 and would like to go back.

The sub slip doesn't provide for that, and I don't know what mechanisms are available to us. I've been told that unanimous consent doesn't do it. I don't know if there's a way around that. I suppose another possibility is unanimous consent to stand down the NDP amendments until tomorrow morning and come back to them at that time. That might be a possibility. I believe each caucus is also entitled to a 20-minute recess, so the other possibility would be that I stay here until 20 to 5 and call a recess, which I don't really want to do, but I do feel an urgent need to get back over there.

I'm just wondering if there is an ability to address this. If there isn't, I understand, that's fine; I'll stay and continue the work. I'm seeking some advice and help.

Mr Carroll: That same situation arose this morning and I suggested we accommodate Ms Churley because you had not arrived yet because of a mess-up on time. I would be prepared to do the same thing again, except in light of the happening this afternoon, where I had asked for an accommodation from the committee that wasn't forthcoming. I struggle now with being able to be agreeable to a request for an accommodation that this morning I was quite agreeable to, but I do believe it is a bit of a give-and-take situation. For that reason and only that reason, Ms Lankin, I am sure you will understand that I would not be in a position to accede to your request this afternoon.

Ms Lankin: I would understand if we were talking about issues of politics or caucus, as opposed to a personal issue with respect to my mother being in the hospital, Mr Carroll. But if that is your opinion, I suppose another alternative is that Ms Papatello and I could both call 20-minute recesses which would take us through to 5 o'clock. It would solve my personal problem, but it sure doesn't help the committee proceed through its work. I'm trying to see if there's a way in which we can facilitate the committee proceeding with its work and not hold things up.

On a more practical note, I have always believed that politics between us are much different than personal issues between us. If you don't see it that way, I think that's unfortunate.

Ms Churley: Very briefly, I just want to correct the record, and Mr Carroll, you know this. This morning I was very pleased to see you, in the spirit of cooperation, move that motion for unanimous consent, but you know very well that it was ruled out of order. We were told very clearly — you were here; you heard that — that it was out of order, and it's as simple as that. I think it's really unfortunate that you're playing those kinds of games and suggesting you'd be happy to do it again "if only," when —

Mr Preston: Point of order, Madam Chair.

Ms Churley: I have the floor.

The Chair: Point of order, Mr Preston.

Mr Preston: I would like to set the record straight. We offered to stop at 1 o'clock instead of 2. We tried to accommodate you this morning.

The Chair: That's not a point of order, Mr Preston. Ms Churley, please continue.

Ms Churley: Anyway, the fact remains that she asked for unanimous consent, as Mr Carroll did this morning, and it was ruled out of order. That's all I'm doing, clarifying that.

However, I would say that Ms Lankin has a personal problem. Her mother is ill, just had surgery, and as you can see, the member for Beaches-Woodbine is anxious to get back to her mother. As I understand it, there is no mechanism here, as we found out this morning, to deal with this, in which case I presume what we're stuck with here is adjourning till tomorrow.

Ms Lankin: We could have an agreement to stand down all NDP amendments until tomorrow morning, Madam Chair.

The Chair: There are some options open to us, assuming people agree. Certainly there is no facility to have unanimous consent on this issue, because this is a party issue, not a committee issue, so we can't really deal with that. The two options are to stand down the NDP motions. I think that was briefly discussed this morning and rejected. The second option would be to call for a short adjournment until you get a sub slip in to us.

Ms Churley: We can't do that today.

The Chair: That's not possible either? Then my apologies; we can't do that either.

Ms Lankin: Otherwise we could do that. I'm the whip, so I could sign it. That's not the problem.

The Chair: There really is no other option, then, other than that you continue or there is an adjournment, unfortunately. We're working under a time allocation motion, as you know, which doesn't give us any latitude.

Mr Preston: Madam Chair, if I understand, nobody here has any control over what's about to happen. We can't agree to anything, really.

The Chair: We can't agree to substitute Ms Lankin. We can agree to two things: We can stand down the NDP motions —

Mr Preston: Everybody scratched that this morning.

The Chair: — or we can adjourn. The adjournment can either be accepted, I suppose, by unanimous consent, or the two opposition parties can invoke their own 20-minute adjournments, as Ms Lankin has recommended.

Mr Preston: If it's not a unanimous consent, they'll just vote the two 20 minutes.

Mr Bob Wood (London South): Could I offer a suggestion, which probably nobody will listen to. Would there be a possibility of a five-minute recess? Obviously Ms Lankin should get on her way. That's self-evident. Could we have a five-minute recess and see if something could be worked out so she could get out of here and carry on?

The Chair: The point is, Mr Wood, there is nothing else that can be done. We can't call a recess and then reconvene with Ms Churley in attendance. We simply can't do that.

Mr Bob Wood: My understanding was there is a possibility of the NDP amendments not being dealt with today.

The Chair: That's right.

Mr Bob Wood: I'm suggesting there be a five-minute discussion, on the understanding Ms Lankin is going to depart so she can get out of here, and if we can't agree to something, we obviously can't continue for the day. Stay for the five minutes.

Ms Lankin: Is there a willingness for unanimous consent to stand down the amendments? If not, I'm going to continue, and I'd rather we just get back to the amendments. I don't want to screw up a whole lot of time for the committee. That's the one possibility, that the amendments are stood down and we don't deal with NDP amendments this afternoon. If that's a problem, gentlemen, I understand, and we'll continue, okay? I'll ask for that unanimous consent, but I understand if it's not given.

The Chair: Is there unanimous consent?

Interjections: Agreed.

The Chair: Very well. There is unanimous consent to stand the —

Ms Lankin: Mr Carroll, you're in agreement?

Mr Preston: You didn't hear a no. Don't push it.

The Chair: There were no noes. We will stand down the NDP amendments. Thank you very much.

We'll proceed, then, with section 75. Is there any discussion on section 75?

Ms Lankin: Are we on 76 or —

The Chair: No, we're still on 75.

Mr Froese: What happened to section 74? I don't think we voted.

The Chair: We did 74 and we did 74.1 and 74.2. They were both carried.

Section 75: All in favour of section 75? Opposed? Section 75 is carried.

Section 76, Mr Carroll.

Mr Carroll: I move that section 76 of schedule A to the bill be amended by striking out "prescribed duty or power" in the second line and substituting "power or duty under this act or the regulations."

This amendment is needed because the present wording is too restrictive and does not capture the duties and powers set out in the act.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is carried.

Shall section 76, as amended, carry? All in favour? Opposed? The section, as amended, is carried.

Section 77 is one on which we have an NDP amendment.

Mr Preston: The Liberal motion is exactly the same.

1620

The Chair: As I was just about to say, Mr Preston. You're always one step ahead of me.

Mr Preston: Well, I try.

The Chair: The NDP and Liberal motions are identical, so I think in that circumstance we could deal with section 77.

Mrs Pupatello: I move that subsection 77(3) of schedule A to the bill be amended by striking out "obstruct or" in the first line.

The purpose of doing that in terms of obstruction, "No person shall knowingly give false information" frankly is sufficient in that regard.

The Chair: Further discussion? All in favour of subsection 77(3)? Opposed? The amendment is defeated.

We'll deal with the NDP amendment, which is out of order because it's exactly the same as the Liberal one.

Shall section 77 carry? All in favour? Opposed? Section 77 is carried.

Mrs Pupatello: I move that schedule A to the bill be amended by adding the following section:

"Assessment of act

"77.1(1) There shall be adequate objective assessments of the outcomes of Ontario Works employability programs, including,

"(a) requiring the ministry to build methodologically valid assessments into program design;

"(b) specifying the minimum outcome measures that should be examined, including real employment outcomes, consequences of termination, et cetera; and

"(c) establishing for objective third-party review through an arm's-length evaluator such as the Provincial Auditor.

"Regulations

"(2) The Lieutenant Governor in Council may make regulations with respect to authorizing and contracting for evaluations and suspending or modifying particular general requirements where necessary to ensure valid evaluations of employment programs.

"Report

"(3) The minister shall report the results of these evaluations to the Legislature."

As part of the discussion, I must say that we are wholesale opposed to this bill. We certainly understand that the likelihood of it becoming law is a good one and we think, given that, the ministry, the government members should not be afraid of looking at a third-party review of what it is instituting. I believe that governments of all stripes in our history of governing in Ontario have never taken the

time to properly assess things they have implemented to see that they are appropriate measures and ways to spend government dollars, and in fact appropriate measures and ways to deal with citizenry, in particular in the area of social services, where you are supposed to be a service to people as opposed to a barrier for people to get service. I can't imagine any good, logical explanation to avoid voting in favour of this amendment. It puts the onus on government to prove that it is responsible to its taxpayers.

The Chair: Further discussion? All in favour of section 77.1? Opposed? Section 77.1 is defeated.

Shall section 78, the short title of the act, carry? All in favour? Opposed? Section 78 is carried.

Shall schedule A carry? All in favour?

Mr Preston: I have a question regarding first nations. I'd like to be assured that discussions with the first nations are going to be carrying on regarding their inclusion in warfare.

The Chair: Mr Preston, the immediate answer to your question is that section 28 is still outstanding. We'll have to come back to it tomorrow when we get the answer from the ministry staff. Is that not correct? Does section 28 deal with native affairs? Oh, my apologies. I think the parliamentary assistant should answer.

Mr Carroll: The only answer I can give to that is certainly at the committees we heard some discussion about Ontario Works and how it would relate to first nations people. We did assure the first nations people who came forward to us that there would be ongoing discussions about how Ontario Works will be implemented in the various locales where they provide the program. There are some unique situations that arise in first nations areas that we need to address as a government. We're cognizant of those and our commitment is that there will be discussions ongoing relative to those concerns.

Mr Preston: Thank you.

Mrs Pupatello: Just for the member for Brant-Haldimand, I would like to note that the parliamentary assistant indicated that ongoing talks would continue, and in fact there are not ongoing talks at the moment with a group that represents all of the first nations in Ontario. There's been some telephone discussion with one particular band. That does not imply that there is concurrence from all of the bands. As was confirmed in London when we spent the day there, the first nations checked while we were still there during committee and did confirm that there is no negotiation currently under way with the bands.

The Chair: We will have to leave this for the time being. We can't actually vote on schedule A because we've not done section 28.

We'll proceed with schedule B, 60C.

Mrs Pupatello: Number 60, was that because it was a duplicate? Was it withdrawn so we don't have to hold it in abeyance until tomorrow?

The Chair: It was ruled out of order because it's identical to — sorry, the NDP motion was ruled out of order because we discussed your motion.

Mr Preston: The identical motion was not this one. This is out of order because it's a recommendation, 60C.

Mrs Papatello: No, I meant number 60.

The Chair: No, we're talking about 60A and 60.

Mr Preston: That's because it was the same.

The Chair: Thank you, Mr Preston.

Mr Preston: I'm trying to keep myself in line here, and if it seems like —

The Chair: Mr Preston, your focus is much appreciated.

Mrs Papatello: I move that section 1 of schedule B to the bill be amended by striking out "and" at the end of clause (c) and by adding the following clauses:

"(e) acknowledges the inherent value and dignity of individuals whose circumstances have forced them to turn to the government for assistance; and

"(f) recognizes the collective responsibility of society to create a culture that promotes the achievement of the full potential of every individual, and provides a support system to those in need in order that they may become and remain contributing members of society to the extent of that potential."

As description to this amendment, I feel that there is some good purpose to including (e) and (f), that when it's described as the purpose of the act, there isn't anything in (e) and (f) that the government members should object to because this is what they've been saying all along, and to have it described in part of the purpose of act would be very helpful for those individuals who will be served by it.

Mr Bert Johnson: On a point of order, Madam Chair: What happened to the Liberal motion recommending that schedule B — the one that's numbered 60C?

The Chair: I was getting to that after Ms Papatello finished. She launched into 60D.

Mrs Papatello: I thought you'd rule 60C out of order.

The Chair: No, 60C is ruled out of order.

Mr Bert Johnson: Number 60C?

The Chair: Yes, because it's not really a motion; it's a recommendation.

Mr Bert Johnson: Okay, I didn't hear what the disposition of it was.

Mr Froese: Neither did I. I didn't hear —

The Chair: With respect, you did not hear it because Ms Papatello did not raise 60C; she launched into 60D. I was going to come back to it and Mr Johnson rightly pointed it out.

Further discussion on this amendment?

Mr Froese: Just to clarify, it's 60D that we're dealing with now?

The Chair: It's the page that's marked 60D that Ms Papatello has just read.

All in favour of the amendment to section 1? Opposed? The amendment is defeated.

Shall section 1 carry? All in favour? Opposed? Section 1 is carried.

Mrs Papatello: There's no chance to vote down an amendment any more. I would like to move that we just wait till we get back in the morning at 10.

The Chair: I don't understand.

Mrs Papatello: My point is that there's no opportunity now with just one opposition member to vote down any of the government's proposed amendments.

1630

The Chair: We'll move to section 2.

Mr Carroll: Schedule B, section 2, definition of "biometric information."

I move that section 2 of schedule B to the bill be amended by adding the following definition:

"'biometric information' means information derived from an individual's unique characteristics but does not include a photographic or signature image."

This amendment clarifies the definition of "biometric information" in response to concerns raised by the Information and Privacy Commissioner.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment is carried.

We're standing down the next amendment by the NDP, and therefore we're standing down the vote on section 2; likewise with section 3 since it's only an NDP amendment that we have there.

We move, therefore, to section 4.

Mrs Papatello: Give me a moment to catch up in the bill.

The Chair: That would be page 63A, so everyone is clear.

Mrs Papatello: I move that clauses 4(1)(a), (b) and (c) of schedule B to the bill be struck out and the following substituted:

"(a) the person has a physical, psychiatric, developmental or learning impairment that is continuous or recurring;

"(b) the effect of the impairment or any related treatments or both results in a substantial restriction of the person's ability to maintain employment enough to be self-supporting; and

"(c) the impairment, its related restrictions and the person's limitations on employability have been verified by a qualified medical and vocational assessment."

If I may give some supportive information about this amendment, all of us spent much time listening to the community representing those with disabilities, and they spoke to their concerns that there will be people left off the system. We believe that what has been submitted in this amendment, 63A, will in fact be far more clear for people, certainly give people a sense of comfort that they in fact won't be found not to be participative just because they don't meet this new definition. We spent some time looking at how exactly that should be worded. Given the minister's continuous effort to convince everyone that no one is going to be off the system, I don't expect government members would not be supportive of this amendment.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment is defeated.

We'll stand down the next amendment by the NDP. We are now on page 65, schedule B, clause 4(1)(b).

Mr Carroll: Schedule B, clause 4(1)(b): I move that clause 4(1)(b) of schedule B to the bill be amended by

striking out "in activities" in the sixth line and substituting "in one or more of these activities."

This amendment clarifies the government's intent that a person with a substantial restriction in only one area of daily living qualifies for support. A person could be limited in his or her activities at home or in the community or in the workplace. The original provision was misinterpreted by some groups to mean a person had to be severely restricted in all three areas, and that definitely is not the government's intention.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment carries.

Mr Carroll: Schedule B, section 4: I move that section 4 of schedule B to the bill be amended by striking out "Subject to subsection (2)" at the beginning of subsection (1) and by striking out subsection (2).

This amendment removes the provision which stated that a person with a substance dependency was not a person with a disability. A newly clarified provision to achieve this policy objective is being proposed for section 5.

Mrs Papatello: Could the parliamentary assistant give me a little bit more clarification of that? What you're saying is that in section 5 in an upcoming amendment there will be more clarity but what this does is — just go through that again, please.

Mr Carroll: The policy intention has not changed. What we've done here is take out the comment that said that a person with a substance dependency was not a person with a disability. That's what we've removed from this section. Our policy intent to not provide benefits to a person with substance abuse is clarified over in section 5.

The Chair: Further comments? All in favour of this amendment? Opposed? The amendment carries.

The next NDP amendment, in light of the passage of the previous government motion, is out of order, so we move to subsection 4(2) on page 67A.

Mrs Papatello: Does that make it out of order, the passage of the previous government amendment?

The Chair: Yes. It's redundant.

Mr Bert Johnson: What was the disposition of —

The Chair: Page 67 is out of order.

Mr Bert Johnson: That's 67A.

The Chair: No, just 67. We are now on 67A.

Mr Bert Johnson: Okay. Sorry if I'm going too fast.

Mrs Papatello: Is 67A out of order?

The Chair: No, 67A is not out of order. It's up to you to move it.

Mrs Papatello: I move that subsection 4(2) of schedule B to the bill be struck out.

We very clearly have a position in this area, that we don't believe that individuals with substance abuse problems will be well cared for under this legislation. We feel that we should just —

Interjection.

Mrs Papatello: Pardon? Hello.

Mr Carroll: It's striking out subsection (2). We did that.

The Chair: No. All you've done with respect to 66 is to strike out the words "Subject to subsection (2)" at the beginning of subsection (1) and strike out subsection (2). This deals only with subsection (2). So Mrs Papatello will be brief, and we'll get on with it.

Mrs Papatello: I was practically finished. I read it. My discussion under subsection 4(2) is for its wholesale elimination.

The Chair: All in favour of this amendment?

Mr Carroll: Madam Chair, is that amendment not out of order? Have we not already struck subsection 4(2)?

The Chair: Very well. You've correctly pointed it out to my attention. It's out of order, Mrs Papatello.

We'll move to 67B. The hour is getting late.

Mrs Papatello: We are on 67B?

The Chair: Yes, 67B, subsection 4(3).

Mrs Papatello: I move that subsection 4(3) of schedule B to the bill be amended by striking out "a person appointed by the director" at the end and substituting "medical and vocational assessment by qualified persons appointed by the director."

In my discussion, I think it should be abundantly clear that we are concerned that we are not going to have individuals with the right kind of credentials, frankly, making significant decisions that impact on people's lives. We don't think there's any reason not to support the insurance of medical and vocational assessment by qualified persons, still to be appointed by the director. I would feel very strongly about anyone voting against this, because I think it is a check and balance for the government as well and they should always be looking for that.

The Chair: Further discussion? All in favour of this amendment? Opposed? The amendment is defeated.

We cannot vote on section 4, because we have one outstanding NDP amendment, so we will move on to section 5, 67C.

Mrs Papatello: I move that clauses 5(c) and (d) of schedule B to the bill be amended,

(a) by adding at the end of clause (c) "where 'assets' means the money, funds, property or interests in property that are available to be used for maintenance and that can readily be converted to cash, other than those items necessary for the health and welfare of an applicant, recipient or dependant; and"

(b) by striking out "and the verification of information" in the second and third lines of clause (d);

(c) by adding "and" at the end of subclause (d)(i);

(d) by striking out "and" at the end of subclause (d)(ii); and

(e) by striking out subclause (d)(iii).

I think it's straightforward.

1640

The Chair: All right. All in favour of this amendment? Opposed? The amendment is defeated.

The next amendment is out of order since it contains some of the same information that was in 67C.

Ms Baldwin: I would leave that.

The Chair: With respect, letter B is exactly identical to 68 — counsel would prefer to have a vote on it, okay?

Ms Baldwin: No, no.

Mr Bert Johnson: It's already been ruled on.

The Chair: I think it's out of order. We'll just move on.

Subsections 5(2) and (3), Mr Carroll.

Mr Carroll: Schedule B, subsections 5(2) and (3): I move that section 5 of schedule B to the bill be amended by adding the following subsections:

"Same

"(2) A person is not eligible for income support if,

"(a) the person is dependent on or addicted to alcohol, a drug or some other chemically active substance;

"(b) the alcohol, drug or other substance has not been authorized by prescription as provided for in the regulations; and

"(c) the only substantial restriction in activities of daily living is attributable to the use or cessation of use of the alcohol, drug or other substance at the time of determining or reviewing eligibility.

"Same

"(3) Subsection (2) does not apply with respect to a person who, in addition to being dependent on or addicted to alcohol, a drug or some other chemically active substance, has a substantial physical or mental impairment, whether or not that impairment is caused by the use of alcohol, a drug or some other chemically active substance."

This amendment addresses some of the concerns raised by the Ontario Human Rights Commissioner by placing the exclusion from income support due to a substance dependency more appropriately within the eligibility criteria, rather than defining the applicant as not a person with a disability. The amendment also clarifies the policy intent to include those people with an impairment, other than a substance dependency, whether it preceded — for example, schizophrenia — or was caused by the substance — for example, cirrhosis of the liver, fetal alcohol syndrome. I believe this clarifies what our intent is relative to people with substance abuse problems.

Mrs Pupatello: We have a great deal of difficulty with what the government has introduced, because they've simply put it in a different place in the bill. I would like to ask the parliamentary assistant or the ministry staff to explain, given that the government has voted down an amendment that would insist that qualified personnel be the ones to make those kinds of determinations as to effect or other issues. How and whom? Where would the responsibility lie to make these kinds of determinations? Clearly you've just moved it around, but the effect is still the same. Who would then determine whether there are other issues at the same time as substance abuse issues? Are we talking about your run-of-the-mill front-line worker or people who are qualified to speak in this area, people who are trained in this area? Who makes these determinations?

Mr Kirk: Section 5, determination of eligibility: A person comes forward and they say that they have something wrong with them other than the dependency on or addiction to a drug or another substance. Then they would revert to section 4, determination of disability. If there was

something wrong with them other than their addiction or their dependence on alcohol and they said, "I am disabled," then that determination of disability would be made under section 4.

Mrs Pupatello: Yes, I realize that, yet under section 4 we don't have any prescriptive that says those determinations are being done by people who are qualified to make those determinations.

Mr Kirk: Subsection 4(3) says, "A determination under this section shall be made by a person appointed by the director." Clearly the intent is that those persons will be qualified to make the determination.

Mrs Pupatello: Would you find that it would be that difficult to include the idea of being qualified in the legislation, if that's the intent anyway? It's not going to hurt to have it in the bill. I'm specifically speaking about a particular delivery agent, depending on where it is and their accessibility to people who are qualified. If it isn't in the bill, then it's not required by that delivery agent to provide qualified people. If it means the cost of a \$1,000 flight from here to some part of Ontario to bring a qualified individual in, then that delivery agent is not mandated by the law to have a qualified person make the determination.

Mr Carroll: Madam Chair, I believe that we have already defeated an amendment that would do what Ms Pupatello is suggesting.

Mr Preston: If a person falls from a height and damages a leg badly and then is in the hospital, he qualifies for disability. But the drug habit is induced because of the morphine that he's had to take during his disability. He is no longer physically disabled other than for the drug habit. Does that disability continue because he now has the drug habit? It's induced by hospitalization.

The Chair: For the parliamentary assistant?

Mr Preston: Whoever can answer it.

Mr Carroll: It says, "A person is not eligible for income support if...the alcohol, drug or other substance has not been authorized by prescription as provided for in the regulations." I don't know that this is the appropriate place to get into specific cases and how they will be assessed, because there are many circumstances that would alter a case. I don't know that the legislation will deal with that specific example you quoted. I can say yes, they will, or no, they won't be eligible. The proposed act says that the person is not eligible if the alcohol has not been authorized by prescription as provided for in the regulations. The regulations will deal with that whole area of medically induced drug dependencies. I don't think it's appropriate that we deal with that particular specific example in this time.

Mr Preston: It's not really a specific example, I'm sorry.

Mr Carroll: It sounds specific to me.

Mr Preston: I spent a lot of time on the orthopaedic wing. A lot of people became drug dependent because of surgical processes that took weeks and months to fix. They became, and I've discussed this, drug dependent due to an injury that was disabling. Does that disability continue until the drug dependency is cured?

Mr Carroll: I believe that is a question that will be answered by an assessor. I'm not prepared in a discussion in clause-by-clause of the act to say that particular case would be declared a person with a disability.

Mrs Pupatello: Can I get some clarification by the ministry in light of what they know is out there today as far as delivery agents, even though there are likely to be substantial changes because we're moving from 200-and-some-odd to 50 delivery agents. It is conceivable that you will have a delivery agent that will not have qualified assessors who may be in a position of determining or reviewing eligibility.

Mr Carroll: I guess anything's possible. We can certainly dream up some scenarios that might be possible, but it's certainly not the intent of the legislation that anybody be assessed by someone who's not qualified.

Mrs Pupatello: I'm noting a little bit of disdain by the parliamentary assistant. Unfortunately, because this specifically deals with those who are substance abusers, it certainly moves into a social area as well as a medical area in terms of the assessment procedure.

1650

The Chair: Mrs Pupatello, I believe your question has been answered.

Mrs Pupatello: Just for the record, I want to state that this isn't the same as a medical officer in terms of reviewing. In these instances where substance abuse is an issue, we need to ensure that you've got in place the people who are making these determinations, that it's not just the local doctor who might be given that authority by the director but people who really are qualified, because it's certainly a different field when you enter the whole area of substance abuse. Those who work in the field understand that.

I am concerned about it because I think the rhetoric out there so far has been that it isn't the intention to get people with these issues out of the system. Given that, I think everyone's clear that's what the intention is, because there isn't support for that publicly. I feel that in fact is how the policy manuals are going to be written unless you otherwise give some guarantee that a qualified person will make the determination.

I'm of the opinion that it's the policy intent to not have these people on the system, unless I'm wrong there, and I don't believe I am. I've read all of these statements made by individuals on these issues and it is a great concern.

The Chair: All those in favour of the amendment? Opposed? The amendment is carried.

There being no valid NDP amendments to stand down, we'll vote on section 5. Shall section 5, as amended, carry? All in favour? Opposed? This section is carried.

Section 6: Any discussion on that? All in favour? Opposed? The section is carried.

Section 7: We have an NDP and Liberal amendment, both of which are out of order because they're recommendations.

We proceed to Mr Carroll.

Mr Carroll: I move that section 7 of schedule B to the bill be struck out and the following substituted:

"Lien on property

"7(1) The director shall in prescribed circumstances, as a condition of eligibility for income support, require an applicant, recipient, spouse or dependent adult who owns or has an interest in property to consent to the ministry having a lien against the property, in accordance with the regulations.

"Dependent child

"(2) Subsection (1) applies with respect to a dependent child who owns or has an interest in property but only if the property was transferred to the child within the prescribed period by a person of a prescribed class.

"Exception

"(3) This section does not apply with respect to property that is the principal residence of the applicant, recipient, spouse or dependent."

Mr Carroll: We had many requests on the road from disability groups to clarify that it was not the government's intention to have liens applied to principal residences of persons with disabilities and we have certainly done that in this section.

The other part of the section deals with the concerns of the children's lawyer surrounding the whole area of a dependent child not being responsible for their parents and making sure that if a property was transferred into the hands of a dependent child to avoid a lien being placed on it, it would in fact be eligible for a lien. That was covered under Ontario Works also.

Mrs Pupatello: Just a question of the parliamentary assistant. Would this make it retroactive to any given time, anyone who today is now transferring property, say, in this year and prior to the passage of this bill?

Mr Carroll: I guess the qualifier is that if the property's being transferred to a dependent child to avoid placing a lien on it, then that would be up for an evaluation by someone, whether it happened this year or next year or whenever it happened, if the intention was to avoid it being available to place a lien on it.

Mrs Pupatello: But if it happened prior?

Mr Carroll: Just off the top of my head I'd say that until the bill gets proclaimed, liens are not an issue. As I understand it, liens are currently not an issue.

Mr Kirk: You could have a retroactive regulation-making authority.

Mrs Pupatello: Is that going to be the case? I guess that's the point. You would have to have some kind of power to get that kind of information, right?

Mr Carroll: You mean information that the only purpose for transferring ownership was to avoid a lien?

Mrs Pupatello: Yes. You've got the retroactiveness in the other part of the bill. Is it going to apply here as well?

Mr Kirk: Until this bill was tabled, liens were not an issue. People would not have transferred property into the children's name in order to avoid a lien, because liens were not placed. The only instance where it could possibly be considered is if it had happened since this bill came out.

Mrs Pupatello: I just don't remember seeing anything about retroactivity in the regulations in section B.

The Chair: Any further discussion?

Mr Preston: It's 5 o'clock.

The Chair: Then we'll vote on this first, if you don't mind, Mr Preston.

All in favour of the amendment? Opposed? The amendment is carried.

Mrs Papatello: Those opposed, did you ask that?

The Chair: Yes, we did. We asked opposed.

Shall section 7, as amended, carry? All in favour? Opposed? The motion is carried.

Ladies and gentlemen, it being 5 o'clock, we're going to reconvene tomorrow morning at 10 in this room. Should you wish to leave your materials, I'm assured by the clerk that the room will be locked so you may feel free to leave anything you wish.

The committee adjourned at 1656.

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Mardi 4 novembre 1997

Standing committee on social development

Social Assistance
Reform Act, 1997

Comité permanent des affaires sociales

Loi de 1997 sur la réforme
de l'aide sociale

Chair: Annamarie Castrilli
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Tuesday 4 November 1997

Mardi 4 novembre 1997

*The committee met at 1006 in room 1.*SOCIAL ASSISTANCE
REFORM ACT, 1997LOI DE 1997 SUR LA RÉFORME
DE L'AIDE SOCIALE

Consideration of Bill 142, An Act to revise the law related to Social Assistance by enacting the Ontario Works Act and the Ontario Disability Support Program Act, by repealing the Family Benefits Act, the Vocational Rehabilitation Services Act and the General Welfare Assistance Act and by amending several other Statutes / Projet de loi 142, Loi révisant la loi relative à l'aide sociale en édictant la Loi sur le programme Ontario au travail et la Loi sur le Programme ontarien de soutien aux personnes handicapées, en abrogeant la Loi sur les prestations familiales, la Loi sur les services de réadaptation professionnelle et la Loi sur l'aide sociale générale et en modifiant plusieurs autres lois.

The Chair (Ms Annamarie Castrilli): Ladies and gentlemen, welcome to our second day of clause-by-clause on Bill 142. We are going to proceed by going back to some of the sections that were either stood down or required some answer. The first one we deal with is schedule A, subsection 28(11). You will find that on page 29 of your binder. You may recall that one was deferred until today. It was originally moved by the NDP.

Mr Jack Carroll (Chatham-Kent): We were dealing with subsection 28(11). The situation we left yesterday was that there were some questions from the third party, from Ms Lankin, about what this particular section meant and we were unable to satisfy her when we explained that, in our opinion, if the administrator of the program had made a decision, and if that decision was in fact appealable to the tribunal, the onus was on the person, the appellant, to prove the decision was wrong. Ms Lankin had some concerns about that so I said I would get some more information, whatever other information was available.

The only thing I can add to the logic of that this morning is that that particular wording, that the onus is on the appellant to prove the original decision was wrong, will be used as the basis for which the tribunal and its processes will be structured. We have to start from some premise in establishing the tribunal, so the premise under which the tribunal and its processes will be established will be that

the appellant has the responsibility to prove that the original decision that was made was wrong.

Mrs Marion Boyd (London Centre): The question, I believe, was whether that is the same principle as now applies or whether it is increasing the burden of proof. Are we still talking about the current situation where the appellant of course bears the responsibility and must prove it beyond a reasonable probability?

Mr Carroll: I'm not sure that was —

Mrs Boyd: The balance of probabilities.

Mr Carroll: Have we anything further to add? Does this increase the burden of proof?

Ms Alison Fraser: No, it does not change the burden of proof. It is still proof on a balance of probabilities as it is today.

Mrs Boyd: The other question then is, in law now, when SARB looks at something, it is looking at the issue the administrator decided upon, but if there is additional evidence to be brought forward in support of the appellant's position, it can be brought forward to the tribunal even if it has not been brought forward to the administrator. Would that remain case the under this section?

Ms Fraser: There was no intent to change the current status on that matter.

Mrs Boyd: Thank you.

The Chair: With that, we'll vote on subsection 28(11). All in favour? Opposed?

Mr Carroll: Are we voting on the subsection or the whole section?

The Chair: Just the subsection, 28(11), on the amendment that was brought in by the NDP.

Mr Peter L. Preston (Brant-Haldimand): Are we voting on the amendment or the section?

The Chair: Mr Preston, we're voting on the amendment of the NDP to subsection 28(11), which was the one that was stood down. All in favour of the amendment? Opposed? The amendment is defeated.

Just to refresh members, there were no amendments that were carried to section 28, so shall section 28 carry? All in favour? Opposed? This section is carried.

Now we need to deal with all of schedule A.

Mr Carroll: On a point of privilege, Madam Chair: We had a discussion yesterday surrounding the reasons for Ms Lankin to be away from the committee and I hope everything went well with her mum. I trust it did because I saw Ms Lankin on television last night, so I trust things are fine with her mum.

The Chair: Thank you, Mr Carroll. We all wish Ms Lankin and her mother all the best.

Shall schedule A, as amended, carry? All in favour? Opposed? Schedule A, as amended, is carried.

Mr Preston: On a point of order, Madam Chair: Could you tell me where we're at with the question I put to Hansard yesterday? You were going to get me the relevant introductions to the votes, the votes yesterday.

The Chair: Yes, I'll ask the clerk to respond.

Clerk of the Committee (Ms Tonia Grannum): Yes, we've put in that request and they will be getting it to us as soon as they can.

Mr Preston: Is there any time frame on that?

Clerk of the Committee: Hopefully today. We'll have somebody check on that.

The Chair: You will recall that a number of amendments to sections were stood down. I propose to go back to those now. With the assistance of the clerk, I hope I don't miss any. They occurred in schedule B. Section 1 was carried. Section 2: There was an amendment to be moved by the NDP.

Mr Boyd: I move that section 2 of schedule B to the bill be amended by adding the following definitions:

"'assets' means money, funds, property or interests in property that can readily be converted into cash, but does not include money, funds, property or interests in property necessary for the health or welfare of an applicant, recipient or dependant;

"'income' means any payment in the nature of income made to or on behalf of an applicant, recipient or dependant and available to be used for basic needs and shelter."

If I may just give the rationale for the amendment, which I'm sure Ms Lankin did yesterday on schedule A as well, the purpose of the amendment is to be very clear that there is no intention here to deprive people of the wherewithal to support their health and welfare and that any income has to be available for basic needs. The concern of course is around issues which arise partly out of this bill which make it possible that income will have been completely assigned to another party under the Family Responsibility Office act or similar kinds of situations. So we're talking about income that's available for meeting the basic needs.

Mr Carroll: As Ms Boyd said, we dealt with this under Ontario Works, and the bill already has regulation-making authority to define any word or term — section 74 under Ontario Works and section 54 under the ODSP — so for that reason this amendment is not necessary.

The Chair: Ms Boyd, just before you start, for the benefit of members, it's around page 62 in the binder in case you're not with us.

Mr Boyd: We're well aware of the regulation-making power under this bill. The issue for people who came before us as a committee was that they wanted some of these definitions enshrined in legislation so that they couldn't be changed at the whim of the minister or the Lieutenant Governor in Council.

Definitions are extremely important when we are talking about a bill which is talking about the subsistence

needs of members of our community. To have these two things left up to the whim of the government of the day is not appropriate. It has been one of the criticisms of social assistance legislation from its inception, that too much is left up to regulation. It is scant comfort to those who came before us when the parliamentary assistant tells us that there's regulation-making power to define virtually anything in the bill. People who object to this bill are well aware that the government can skew this legislation in any direction it wishes because it has left so much up to regulation.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

I will remind members with respect to section 2 that we approved one amendment and so my question is, shall section 2, as amended, carry? All in favour? Opposed? The section carries.

Section 3, Ms Boyd, was also stood down.

Mrs Sandra Papatello (Windsor-Sandwich): The number of the amendment?

The Chair: It's on page 62, which is schedule B, section 2, definitions.

Mr Preston: Page 62?

The Chair: Yes.

Mr Preston: It's the one we just did.

The Chair: Yes, but Ms Papatello was asking me about that. That's why I repeated it. We are now on section 3.

Mrs Papatello: That's the one I was asking about.

The Chair: My apologies. I misunderstood you.

We're on section 3, which is the NDP motion on page 63.

Mr Boyd: I move that subsection 3(1) of schedule B to the bill be amended by inserting after "section 4" in the third line "the person is 60 years of age or older and less than 65 years of age, the person was a recipient of an allowance under the Family Benefits Act on the day before this section is proclaimed in force."

Of course the purpose of the amendment is to ensure that those who are between 60 years of age and 65 years of age continue to keep their eligibility under this act. Age may have been the reason they were considered unable to work, because of disabilities that may not meet this prospect of eligibility change they clearly face with this bill. So we are asking that it be very clear that these folks be specifically included in the ODSPA.

Mrs Papatello: I want to add for the government members that we tried to have this kind of clause also included under the workfare portion of the bill, and for all of those same reasons we believe it must be included in this portion of the bill.

On all the examples we gave in the House and outside the House as to why 60- to 65-year-olds should be exempt, the minister's response only addressed the issue of how appropriate it would be if it were an opportunity they could choose as opposed to it being mandatory, because indeed some people 60 to 65 may well choose to have opportunities available to them for employment. We cannot carte blanche suggest that all of these people in this

age group are going to be appropriate in the workfare program and potentially left out of other programs based on that age, because there are typically many other factors, given the decade they grew up in, were schooled in etc. We brought real-life examples of those people to the minister's attention. The response at that time only answered the question that it would indeed be beneficial to them if they could choose to participate in those programs. I would again like to stress that while you've defeated amendments previous to this, you have another opportunity now to set aside a special clause, at minimum, for this age group, 60 to 65.

1020

Mr Carroll: I'd just like to remind the committee members that this is the Ontario Disability Support Program Act we are dealing with here. The government's belief is that being over 60 does not mean you're disabled. Being a sole-support parent does not mean you're disabled. We believe this plan is designed for people who are disabled and therefore should not include persons who are 60 to 64 and that is their condition or persons who are sole-support parents. For that reason, this amendment is not acceptable.

Mrs Boyd: It's very clear that the government is saying it is prepared to make it mandatory for people between 60 and 65, who we know from all the employment statistics and research that's been done already have difficulty finding work, that this government is prepared to make that group of people face mandatory workfare exactly the same as others. I think they will find that is not a wise decision for them to make. If people have the choice, those who are able will work and those who are not able will not be able to work. It's just another example of this government being punitive against a whole class of people because of its ideological position.

Mr Preston: Using Ms Boyd's own words, those who are able will work and those who aren't able will be on disability. Governments all over North America have said 65 is the time you start putting people out to pasture, not 60, thank you very much. Able, they work; not able, they're on disability. Your words, not mine.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Boyd: Madam Chair, I made an inquiry in response to Mr Carroll's inquiry about Ms Lankin's mother. I understand that Ms Lankin did go to see her and that she is holding her own. He made some comment about her being on TV and apparently those were clips that were taken from luncheon, on education, and did not occur in the evening as the member suggested.

The Chair: Shall section 3 carry? We have just voted on the amendment. All in favour? Opposed? The section is carried.

Section 4: We have an NDP motion which was stood down, subsection 4(1). You will find it on page 64 of your binder.

Mrs Boyd: I'll read the amendment as it is placed.

I move that subsection 4(1) of schedule B to the bill be struck out and the following substituted:

"Person with a disability

"(1) Subject to subsection (2), a person is a person with a disability for the purposes of this part if,

"(a) the person has,

"(i) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, including diabetes mellitus, epilepsy, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or on a wheelchair or other remedial appliance or device,

"(ii) a condition of mental retardation or impairment,

"(iii) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,

"(iv) a mental disorder, or

"(v) an injury or disability for which benefits were claimed or received under the Workers' Compensation Act;

"(b) the results of a direct or causally connected and cumulative effect on the person's ability to attend to one or more of his or her personal care, function in the community or function in a workplace;

"(c) the impairment and its likely duration have been verified by a person with the prescribed qualifications."

This definition is taken directly from the current human rights definition. We heard again and again from people coming before the committee that the real concern people have is that the definitions are not clear enough in the act to reassure people that they are going to enable those who have disabilities to have a subsistence income under social assistance, or rather, under the ODSPA, so we are adding this.

I would say, Madam Chair — and I don't know whether amendments to amendments are allowed in this process; they have been in other committees that are under time allocation but that would be up to you — that 1(a)(ii), "a condition of mental retardation or impairment," although it is in the definitions that are available in current legislation, is certainly offensive to a lot of people. The acceptable language that has been adopted has been "a condition of developmental delay or impairment." If the committee is willing to look at that as an amendment, I would be prepared to put it.

The Chair: We have no latitude to accept amendments to amendments. Our time allocation motion is quite clear that all of the amendments had to be filed with the clerk on the fifth calendar day following the final day of public hearings on the bill. We've had similar discussions here before and no amendments are possible.

Mr Carroll: On that issue, you have set a precedent by allowing some word change to many Liberal amendments. I think in the name of consistency you must allow Ms Boyd to make this wording change in this amendment, because you have already set a precedent saying it is okay in this committee to change the wording of amendments

beyond the time frame allowed in the time allocation motion.

The Chair: I thank you, Mr Carroll, and I certainly am sympathetic to what's been voiced here. If members will recall my ruling at the beginning of the session, the reason the word changes were allowed at that juncture was because the amendments had already been filed and it was only a question of putting them into legal language. There were no changes. I don't think this would stand as a legal language change. For that reason, I can't allow it.

Mr Carroll: Madam Chair, I must —

The Chair: Mr Carroll, that's my ruling and I really would like to move on.

Mr Carroll: Is there no opportunity in this committee for some consistency? You either make decisions and allow changes in wording in amendments for all parties or you make them for no parties. You've already set a precedent by allowing them for your party. I believe you have the obligation to allow them for all parties.

The Chair: I've given you a great deal of latitude, Mr Carroll. I understand the concern and, believe me, I'm sympathetic, but I do believe I'm being consistent.

Mr Preston: Sympathetic but not consistent.

The Chair: Can we go on?

Mrs Papatello: Madam Chair.

The Chair: Ms Papatello, is this on the same point? I want to move on.

Mrs Papatello: Yes. I just had a suggestion that if the committee was prepared to move this particular amendment, I think we can find a way, once we have that motion moved, that perhaps the committee would consider changing the wording of "mental retardation" to "developmentally delayed." If the committee is prepared to defeat the amendment anyway, then this is moot.

The Chair: The difficulty we have, Ms Papatello, is that we have no facility to move amendments to amendments in this committee.

All in favour of the amendment? Opposed? The amendment is defeated.

Ms Boyd, for your information, the next one is subsection 4(2), but that amendment was ruled out of order in light of the fact that the government amendment to section 4 was carried. For the benefit of the members, there were two government amendments to section 4 that were carried.

1030

Mrs Papatello: What are those numbers, Chair?

The Chair: Which numbers, Ms Papatello?

Mrs Papatello: The government motions that we passed.

The Chair: That would be clause 4(1)(b) and section 4, on pages 65 and 66.

Mrs Papatello: Did that make my next motion —

The Chair: Yes. We ruled on it yesterday.

Shall section 4, as amended, carry? All in favour? Opposed? The section, as amended, is carried.

Section 5: For your information, Ms Boyd, that section was carried. There is no need to deal with the NDP

motion. It was out of order as a repetition of the Liberal motion.

The next section is section 7. That was also out of order, because I believe that was a recommendation; it was not a motion.

That brings us to a new order of business, section 8.

Mr Carroll: Madam Chair, just a question: Was section 7 carried?

The Chair: Yes, it was. It was our last item of business yesterday.

We are now at section 8. Just so everyone is following along, that would be page 71A in your package.

Mrs Papatello: I move that subsection 8(1) of schedule B to the bill be struck out.

The discussion around the purpose of this amendment is to completely remove section 8 as it deals with reimbursement requirements. We think that in regulation there are other ways. If there are overpayments for some particular purpose, there are other areas of the bill where you can satisfy obvious overpayments or errors in that way. We have had evidence that many of those issues and errors tend to have more to do with the staff direction than the recipient direction. So we don't see any purpose, other than to be punitive, to have section 8 in there in the first place and we'd like to see that entire section removed.

Mrs Boyd: I would be very curious if the parliamentary assistant could tell us what kind of prescribed circumstances are being anticipated here.

Mr Carroll: I don't know that. We don't know. We haven't determined that yet.

Mrs Boyd: Another pig in a poke.

Mr Carroll: I guess you can call it whatever you want, Ms Boyd.

Mrs Boyd: The reality here is that this is left so open-ended that basically what it requires an applicant to do is to sign away something without any idea under what circumstances that may be acted upon. It seems to me that certainly is a violation of natural justice, if nothing else.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Mr Carroll: I move that section 8 of schedule B to the bill be struck out and the following substituted:

"Agreement to reimburse and assignment

"8(1) The director shall in prescribed circumstances, as a condition of eligibility for income support, require an applicant, a recipient or a dependant to agree to reimburse the director for the income support provided or to be provided.

"Same

"(2) An agreement under subsection (1) may require an assignment, as prescribed.

"Same

"(3) This section does not apply to,

"(a) a payment that would be exempt as income or assets under this act or the regulations; or

"(b) that portion of employment earnings, pension income or other prescribed income that is paid with respect to a period after the period during which the person receives income support."

Subsection (1), as amended, clarifies that a person may be required to agree to reimburse not only assistance to be provided but also assistance that has been provided in the past.

Subsection (3), as amended, clarifies that there's no intention on the part of the government to either (a) seek an assignment against the types of income or assets that are exempted under the regulations or (b) to assign earnings or other income not attributable to a period during which social assistance was received.

Mrs Papatello: A question for the staff or the parliamentary assistant: Given the further clarification in this area, given the clarification to 8, there must have been concerns that were raised that now the new amendment being put forward takes that element away. Could you give me examples? I know Ms Boyd asked earlier about examples, but even if a person who was disabled should suddenly become not disabled, and you have to be disabled in order to meet the requirements of the ODSP anyway, you're still looking at going back at earnings received through the plan for an individual who has already met the criteria. I can't think of an example. Even if you're blue-skying, could you just give me some type of instance where you have clearly set in further language, when I found the initial one actually not appropriate, in particular for people who have already met these new criteria for actually meeting and becoming eligible for ODSP?

Mr Allan Kirk: This amendment does two things. The amendment to subsection (1) simply makes it clear that when income is going to be assigned, an income will be assigned. This actually is an example of "as prescribed," where someone is receiving, for example, or is eligible to receive Canada pension plan and the application is taking some time to process and they will in fact receive that Canada pension retroactively. The wording in Bill 142 talked about "to be provided." We had to clarify that this was also assistance being provided, so that when the CPP payment finally was made, then we had the ability to assign the CPP that was going to be paid for the same period they received assistance. That's what the first amendment does.

The second amendment makes it clear that this is not a loan program and that the intention is not to assign future earned income or pension income simply because the person had been in receipt of social assistance for some time.

Mrs Papatello: If an individual who is disabled, for example, gets married or changes family circumstance somehow, where all of a sudden they're in a different financial position, having said they've signed this and now they've agreed to reimburse, would you be in a position to go back for those payments?

Mr Kirk: All recipients or applicants who come on to social assistance aren't automatically asked to sign an assignment. People are asked to sign an assignment when it's expected there will be income for a period for which they received assistance. In the example you gave, if someone's circumstances change while they're in receipt

of assistance, if they become married and the spouse has income that makes them ineligible, then they cease to be eligible at that point. They don't assign past social assistance based on the fact that they got married today.

Mrs Papatello: Can you tell me what part of this new amendment indicates that? I don't read that in the amendment you've forwarded.

Mr Kirk: Subsection (3) says,

"(3) This section does not apply to,

"(a) a payment that would be exempt as income or assets under this act or the regulations; or

"(b) that portion of employment earnings...." and so on.

When you assign future income, when someone comes on social assistance, you don't ask them to sign an assignment based on the belief that one day they will get married or one day they will have a partner whose income will render them ineligible for social assistance. That's a change in circumstances, and if a change in circumstances like that happens, then you deal with it when it happens and it impacts on the allowance when it happens.

1040

Mrs Boyd: Just to be very clear, because we did hear presentations particularly from advocates for the disabled, if, for example, someone was on the ODSPA and was unable to work — because I'm most familiar with it, let's use multiple sclerosis as an example — and became healthier over a couple of years and was then able to go back to work, the objective of this amendment would be to not have them then have to pay, out of the wages they earn once they go back to work, the assistance they had. That's what this is answering, the concerns that people had?

The Chair: All in favour of the amendment? Opposed? The amendment is carried.

Mrs Papatello, given the passage of this amendment, yours is out of order.

Ms Boyd, before you begin on subsection 8(3), I'm advised by legislative counsel there was a drafting error that was made in this particular section. There is no subsection 8(3). The instructions from your caucus were to add subsection 8(3). So on that basis, you may introduce it.

Mrs Boyd: I'm going to withdraw it because of the amendment that has just passed.

The Chair: Shall section 8, as amended, carry? All in favour? Opposed? The section is carried.

Section 9:

Mrs Papatello: I move that subsection 9(2) of schedule B to the bill be amended by striking out "only in accordance with the regulations" at the end and substituting "once the director has confirmed compliance with the conditions of eligibility for income support."

The purpose of course is that, given other amendments we have forwarded that have since been ruled out of order, as recommendations to withdraw this portion of the bill were not discussed until we saw regulations, it again speaks to the control being so firmly in the lap of what the regulations will read. We're far more comfortable saying clearly that if the director has confirmed compliance with

conditions, that should be sufficient, as opposed to what may or may not be in regulation.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 9 carry? All in favour? Opposed? The section is carried.

Section 10:

Mrs Boyd: I move that section 10 of schedule B to the bill be amended by adding the following subsection:

"Decision

"(3) Where an application is made in accordance with this section, the director shall make a decision on the application within the prescribed time period."

The issue here obviously is that things be done in a timely fashion. It is extremely important that the time limits be clarified and that everyone in the system, whether it's the recipient side of the system or the administrator side of the system, be required to meet the prescribed time.

Mr Carroll: I understand Ms Boyd's concern there and quite frankly I agree with it, but I believe that kind of requirement is more logically done as a delivery standard rather than in the statute. For that reason, this amendment is not acceptable.

Mrs Boyd: That certainly then leaves it up to an issue that is not enshrined in law. It changes in standards, or as with changes in regulations can be done without necessarily the information being provided to people. It is often extremely hard for applicants and their advocates to get hold of the internal standards or policies of the ministry. It's even hard to get hold of regulations sometimes. It would give great comfort to those who are really concerned about this bill to know the requirement is in the act that the time periods will be specified.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Papatello: I move that section 10 of schedule B to the bill be amended by adding the following subsection:

"Same

"(3) Every effort shall be made to ensure that the requirements for making an application for income support are readily available and clearly communicated to applicants for income support."

The purpose of this amendment is fairly clear in that it is our intention that efforts and onus be placed on the ministry as well to ensure information is available readily. We have had numerous instances where people simply aren't accessing the system in a timely fashion despite what their needs are because they just lack information. We have to put some onus on the side with front-line workers to say, "This is what individuals need to know." We feel that by enshrining that in the bill, it will give that kind of message, that people who work with those recipients have a job to do and that is to ensure that, given certain circumstances, if an individual is required to come back to the system, they are told of all the opportunities available to them: how, when, where. Those are often the questions. I know as MPPs we get information all the time

and it's a matter of us having to get people to the right place at the right time.

Mrs Boyd: I would certainly agree that this lack of information and the lack of clarity around what's expected of recipients can be shown to often lead to some of the misunderstandings that occur in terms of whether people are eligible, whether their eligibility has changed. I think one of the very clear issues that has arisen out of more than 10 years of effort to try and make the social assistance system work better for everyone in Ontario has been that whole issue of information flow.

This government has now downloaded the responsibility for administration of this act for the disabled to municipalities, and it is in the municipal sphere where they have been administering GWA that some of the greatest disparities in terms of the way social assistance has been delivered have been noticed.

We have very little confidence that the kinds of agreements delivery agents will be reaching with the government will require them to provide adequate information. Everything in this act leads us to believe that the effort on the part of the government is to keep recipients in the dark. They may not even be notified if they have an overpayment, for example. So this issue of making sure that people actually understand what they're applying for and what they're agreeing to under this act is extremely important.

It will indeed be very detrimental, in my view, for those with disabilities to find themselves with the kind of uneven application that is likely to happen with this download of their needs to municipalities. It is a very big concern to those who work with the disabled that this be spelled out, that it is a requirement to inform recipients.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 10 carry? All in favour? Opposed? The section is carried.

Section 11, any discussion? Shall section 11 carry? All in favour? Opposed? The section is carried.

Section 12:

Mrs Papatello: I move that subsection 12(1) of schedule B to the bill be amended by striking out "The director may appoint a person" at the beginning and substituting "In accordance with the Substitute Decisions Act, 1992, the director may apply to have a person appointed."

The purpose for this is likely clear to everyone. We think there is already legislation in place that would guarantee the appropriateness of appointments for people to act as trusteeships over income for individuals who are going to be on the ODSP. We don't think the director should have this kind of power. We know the Substitute Decisions Act is there and it should be used.

1050

We feel very strongly about this. We feel that there's an opportunity for appointments to be made incorrectly. Given the very nature and issues that we heard from the disabled community where there's a high incidence of intimidation, often abuse, we just don't think it's appropriate.

riate that automatically, for example, a spouse or a family member would be appointed without knowledge necessarily of the history or family history.

There are a whole number of issues, many of which came to our attention during public hearings, and we feel the better course of action here would be to use the Substitute Decisions Act.

Mrs Boyd: I share the concern my colleague has. That was pointed out again and again, not only by those who are legal advocates but by many of the others who came before us. We are expecting a director of an agency that's providing social assistance to make judgements about someone's competence.

We clearly have acts that are there and have recently been revamped to have an even more streamlined process in place. For the government to flout its own agreed law, because there was an opportunity under this government to look at this Substitute Decisions Act when they changed the health consent act, and in fact they made a number of amendments, the reality is that this is trying to go around an act that even this government has agreed is important to protect the rights of the individual. It is quite inappropriate for some person to make a decision around competence when they are not professionally capable of doing so and when they are not required to follow the due process that has already been enshrined under the Substitute Decisions Act.

Mrs Pupatello: I just would like my final comment to be directed as a question to the parliamentary assistant or the staff. If there is a reason the Substitute Decisions Act wasn't used in this and other circumstances, given the history of this act, even with this current government, for what purpose? Was it a matter of time? Is it not a quick enough process? There must be some reason you've selected not to use the Substitute Decisions Act in this.

Mr Kirk: If you remember when we were doing schedule A in Ontario Works, in section 17 one of the government amendments was to remove the ability for the administrator to actually determine that a recipient is incapacitated or incapable of handling his or her affairs. There's a similar motion to amend section 12 of ODSP because we agreed that this was something that could be done through the Substitute Decisions Act. It has been removed in both 17 of OW and 12 of ODSP, but it remains true that there will be instances where it's clear that a recipient is not managing their allowance very well and requires some help, even though it may be that they wouldn't be determined to be incapacitated under the Substitute Decisions Act, which is a lengthy process, by the way.

Mrs Boyd: It may be a lengthy process, but it's a lengthy process to protect the individual and it's a lengthy process precisely because this is leaving an individual here, a disabled individual very vulnerable to other people. There is no restriction on who may be appointed by the director. It could be their landlord. It could be their caregiver. It could be someone who has a direct conflict of interest in terms of looking after their allowance. That is exactly what is frightening to everyone in this system, that

this person can make this decision without going through the due process that should be required.

There are many, many people who think that anyone with a developmental delay is incapable of looking after their own money. The reason there are protections in the act, the reason that there has always been a protection in this province around having someone declared incapable of looking after their own income, is to ensure that people are not taken advantage of.

We had example after example in the Ernie Lightman report around how the kind of assignment that happens in care homes in fact takes advantage of people, puts people into a vulnerable position. This government is simply increasing this to include everyone, whether or not they live in that kind of vulnerable circumstance. It is absolutely inappropriate and there is nothing in the government amendment to provide any protection for vulnerable individuals under this section.

Mrs Pupatello: I just want to give the members of the committee an example. If there's an individual who is not capable of speech, the contact between that individual who meets the criteria of ODSP is through the director, an individual on the front line or an individual in the ministry who is making the determination of who should be appointed on their behalf.

Now you've made an assumption that the director has to get that information from someone who'll act as an interpreter somehow for an individual who cannot speak, for example, so you've already assumed that the director assumes that the information that they get from whoever's speaking on their behalf is speaking in the best interests of the individual, so you're already one step removed that. You simply cannot say that a director is in a position to make what is the most important decision for the recipient, and that is their income. There are very few areas in life that you can control that will have a greater impact on how people live, where they live, when they do what, and that is control of their financial affairs.

I cannot tell you or give you an example of something that's more important, and you are completely putting that decision in the hands of a director with no in-between to ensure it's done properly. So just to give yourselves protection for the government's sake, you should be using the Substitute Decisions Act because there was a real reason that was brought in. Those kinds of issues exist, they're real and I don't believe it's in the government's best interests to ignore this. We understand and we know that there's a significant level of abuse in the community with those with disabilities and it happens because these people are less capable of protecting their own interests than people without disabilities.

I understand that we're going on at length about this motion, but given that you've already made some kind of amendment to suggest that you can use the Substitute Decisions Act in other areas, there isn't a reason why you can't clearly state this in section 12.

Mr Carl DeFaria (Mississauga East): I would just like to have a clarification. That would apply, I guess, only if the person is already disabled, because I assume

somebody who is not disabled could still make a power of attorney for incapacity.

Mrs Pupatello: They wouldn't be in the ODSP if they're not disabled. These are for people who are disabled.

Mr DeFaria: Right. But what I'm saying is that if those people already had a power of attorney for incapacity under the Substitute Decisions Act —

Mrs Pupatello: Then they've already gone through the system. They've already had a trustee established.

Mr DeFaria: Right.

Mrs Pupatello: This is for people who do not have a trustee established for any other element of their life, but in this case of receiving income assistance through ODSP the director has the power to say: "I'm not giving you the money. I'm giving it to your mother, your brother, your boyfriend, whoever." There's no area of clarification where the director must ensure that this person is safe to handle the financial affairs. There are no safeguards the way it is currently written, and I cannot come up with one good reason why you wouldn't have included it specifically in section 12, because it has to do with who controls the money. There's no greater force of power for individuals who are beholden to a system for their income, for their very existence, than this area. If you've made any kind of adjustments through amendments in other areas of the bill, then it only stands to reason that this is the most significant place to ensure it's in the bill.

The Chair: Further debate? All in favour of the amendment? Opposed? The amendment is defeated.

1100

Mrs Pupatello: I move that clause 12(1)(a) of schedule B to the bill be amended by striking out "or likely to use" in the first line.

The purposes for this are that the way that (a) is currently written, it says the recipient "is using or is likely to use" and the difference between the two is that clearly the director or someone has proof that the recipient is using the money inappropriately, and that is very different from the speculation that someone may use the money inappropriately. I think that leaves the gate wide open on how an administrator will judge or prejudge a recipient. If they look funny, if they dress funny, if their behaviour is not within accepted norms of behaviour, there is very much room for judgement on the part of the bureaucrats in this instance. If we remove "likely to use," we're at least curtailing that somewhat.

Although I'm not comfortable with the whole thing clearly, as was the purpose of the previous amendment, I do think that at minimum if you remove "likely to use," you're not giving so much leeway to individuals to make judgements on people who are receiving help.

Mrs Boyd: I would certainly agree that this issue "or likely to use" as a prejudgement of what people are likely to do is extremely questionable in its appropriateness. But I would say, and as is shown by our amendment under number 76 in the binder, we believe that this entire section, clause 12(1)(a), in fact imposes a judgement on

how assistance is used by recipients and therefore is inappropriate in its entirety.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

The clerk advises me that the next four motions in your package are out of order, so with your indulgence I will give you the correct page numbers so we can deal with them sequentially. The first one would be what is your page 76 and it's an NDP motion to schedule B, clause 12(1)(a).

Interjection.

The Chair: No. I can take you through them all now if you wish or I'll do them one by one.

Mrs Pupatello: Just one more so I can run out for a minute.

The Chair: Pardon?

Mrs Pupatello: If I know there's an NDP motion that follows this one —

The Chair: The next one is a Liberal motion. I guess that would be 74D, which we'll be dealing with next. So the first one is schedule B, clause 12(1)(a), which is on your page 76.

Mrs Boyd: I move that clause 12(1)(a) of schedule B to the bill be struck out.

I'm going to read the clause out so that people are very clear what we're talking about. Clause (a) says, "The recipient is using or is likely to use his or her income support in a way that is not for the benefit of a member of the benefit unit."

This quite clearly is the kind of judgemental statement that this government makes all the time about people who are in receipt of assistance, the assumption that people will not be likely to use their benefits appropriately. It is completely inappropriate in this section for a director to (a) make the assumption that someone is not using their benefits and then (b) make the assumption that it's up to that director to name someone else, whether or not the individual agrees that someone may be named to look after their benefit cheque.

You've got to remember that these cheques are the basic subsistence income that someone has. It's all they have under the rules. They do not have additional income. If this kind of basic subsistence income is handed over to someone else by someone, with no restrictions on who this person might name, no requirement for the individual to agree that person is someone who will act in their best interests, it is just absolutely inappropriate. Certainly this kind of clause where someone is able to make an assumption and then to act on that assumption without any requirement for proof at all, without any kind of due process, without even the individual having the chance to answer the accusation, is completely against any kind of principle of due process.

Quite frankly, we'll certainly do everything we can to get this section changed, but it is one of those sections of this act that will be challenged; and I don't think, given the kind of loopholes that there are in terms of people's rights, it is likely to withstand a strong challenge.

Mr Carroll: The effect of this amendment would be to leave the question of incapacity in the bill. We believe that is better dealt with by the Substitute Decisions Act. It also would be to have the question of incapacity as the only determination as to whether or not a trustee should be appointed. We think that for those two reasons this particular amendment is unacceptable because it certainly produces an outcome that I believe both Ms Boyd and the government would not be desirous of, and that is that incapacity would be left up to the discretion of the director and would be the only determining factor.

Mr Preston: Decisions by workers on what they think is going on, what they think is going to happen, happen all the time. There are certain child care workers right now who are being severely chastised because they didn't make a decision on what they saw to be a problem before the problem happened. They see a child in jeopardy and they don't do anything because there are no hard facts. That's ridiculous. If you feel that something is wrong — they are trained to make decisions. Do you close the door after the horse is gone? If they feel that a particular person is not going to use the funds to take care of their children, another person under the plan, the time — as you said, this is all the money there is. This is it. There is no more. Do you close them down after the child goes hungry or before, using your experience before the child goes hungry? I believe we err on the right side and decide that if the administrator thinks this person is not going to take care of that child because he's going to gamble, drink, whatever reason, I think the gate should be closed before the horse is out.

Mrs Boyd: That's a very fallacious argument, as I'm sure the member knows.

Mr Preston: It's not fallacious at all. There are people who are being charged —

Mrs Boyd: When a child welfare worker makes a determination, there is a due process that they have to follow. There is a court that has to decide whether or not they have adequate evidence. This is an absolutely open situation. This director can make this decision and choose any person this director decides without the consent of the individual and therefore put the whole family in jeopardy. There is no requirement here on the director to be sure that the person they are handing the money to is going to use it for the benefit of the members of the unit any more than there is that the person who's primarily the recipient is going to use it for the benefit of the unit.

Mr Preston: I have more faith in the administrator.

Mrs Boyd: This is putting people in double jeopardy as a matter of fact.

The Chair: Excuse me, Ms Boyd. Mr Preston, I'll give you the opportunity to speak again if you wish, but I prefer people to speak uninterrupted. Ms Boyd.

1110

Mrs Boyd: A gut feeling on the part of someone that someone might smoke or drink or gamble rather than buy their children food is not an acceptable reason to hand their money over to another individual who can use that money in any way they wish. This is putting people in

complete jeopardy and it is not appropriate. In the instance that the member mentioned, there is a process set down by legislation. There are time limits within which a judge must make a determination as to whether or not there is adequate proof that in fact a child is in need of protection, and that is very much built into child welfare legislation. For this member to suggest that this is a similar kind of protective issue is absolute nonsense and it is drawing in a red herring.

What this government is saying is that it wants to allow individuals within communities to have power over other people's spending decisions without any kind of check, so that all the judgement that is brought to bear on those who are in receipt of social assistance, and largely brought to bear because of the tactics of this government in demonizing people who receive assistance, will be brought to bear on these individuals and they will have no recourse at all when this happens. There is no due process here. It will never stand up, in my opinion, and it really is questionable that this government is trying to in any way assist the disabled when it leaves a clause like this in.

The Chair: Mrs Papatello.

Mr Preston: If the member believes —

The Chair: Sorry, Mr Preston, Mrs Papatello had asked to speak first, but I'll give you a turn immediately after.

Mr Preston: I'm sorry.

Mrs Papatello: I just wanted to mention that if we were assured that individuals who are receiving disability were going to get the same care and accountability that child care workers must give for the children under CASS, for example — which is the example that you've chosen to use — that is not reflected in this. The significant difference is, in one case you're dealing with children and in this case you're dealing with adults. First, that's a significant difference, so it simply does not apply. Second, the people who are out to protect children have a very stringent process that they have to be accountable for and it must stand up in court. That is not the case with this bill.

Unfortunately, what you're going to find, as Mrs Boyd mentioned earlier, is that you will be subjected to a challenge on this, if these people will be able to access the legal system, which as you well know is becoming more and more difficult the longer you're in office.

Don't even bring in an argument that has absolutely no bearing on this situation. The director in this case is accountable to absolutely no one for the decision that has been made, very much unlike the people who are protecting children, who are answerable to God and country for what they do on behalf of children's protection.

Mr Preston: I don't think we can divorce children from this because I believe that is one of the main people we're talking about when we say "in a way that is not for the benefit of a member of the benefit unit." I believe that's directed directly at children.

To say that they have due process when a child care worker is working, they have that after the fact. If a child care worker is on the ball, she sees a problem developing and she or he — pardon me — takes the child out and then

goes through the due process. If they don't, we have the kind of tragedy that happened down east where they didn't move fast enough. Close the door before the horse gets out, and that's what I think we're doing.

Mrs Boyd: There is no due process built into here. Once the cheque is gone, it's gone. There's no due process that's built in. The parliamentary assistant said that the effect of this would in fact be to make only persons who are incapacitated subject to this. That's right, because people who are incapacitated come under the Substitute Decisions Act and they would have some protection of due process. I'm quite aware of what the effect would be, Mr Parliamentary Assistant. That's precisely what I'm trying to accomplish.

I think the discussion here will make it very clear to a court in subsequent cases exactly what the intention of the government was, and that was to take the ability of someone to make choices about their own income out of their hands without due process. Whatever the intention of that may be, it is not a good reason for interfering with people's rights under the charter.

Mr Carroll: Just a couple of quick points to put an end to the discussion. This is the Ontario disability support plan we're talking about. I think the comment that the government is demeaning folks who are receiving benefits under this plan is unjustified. We made a commitment that we would design a plan that was specifically for persons with disabilities. We have done that and, quite frankly, the majority of them believe that the plan addresses many of their needs that the old system of being trapped on welfare didn't.

The other thing I would kind of remind Mrs Boyd about that I'm sure she is aware of, but maybe she hasn't read them yet, is that she talks about without any kind of check or recourse or due process. I'm sure she is aware there are amendments we will come to that make the decision of the appointment of a trustee an appealable decision, and also there is a process put in place to make sure that the trustee is held accountable for the way they do handle the funds. I believe we have addressed the concerns of persons with disabilities who spoke to us during the committee process and there is accountability built in through some amendments we are proposing.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

The next motion appears as 74D in your package. I would ask you to turn to that now. Mr Preston, I'll remind you again that the clerk advised me there are five motions that in fact are out of order. She has put them back in order so that we deal with them sequentially with respect to the bill. But they are not sequential in your package at the moment, so that's why I'm giving you these numbers. The next one is 74D, which deals with schedule B, clause 12(1)(b). It's a Liberal motion.

Mrs Papatello: I move that clause 12(1)(b) of schedule B to the bill be amended by adding at the end "as determined by a qualified medical assessment."

The purpose of doing that is very much in line with what we've tried to do throughout in terms of our

amendments and ensure that there is a step away from the front-line individual making a decision that is irrevocable, can cause serious damage or harm and frankly put people who are the recipients in a very precarious position. At minimum — again, I say at minimum given that I disagree wholeheartedly with this area in section 12 — if you would add "as determined by a qualified medical assessment," you are at least giving someone with medical qualifications — since the parliamentary assistant has said that this is going to be strictly based on issues related to the disability, then there should be no reason you wouldn't add a medical assessment done by a professional, and that is laid out in this amendment.

Mr Carroll: Just a quick comment on that: I'm a little surprised that Mrs Papatello does not agree with us that that whole area should more appropriately be referred to and come under the influence of the Substitute Decisions Act as we have stated below is our intention with a proposed amendment coming up.

Mrs Papatello: I might remind the parliamentary assistant that when we tried to include qualified medical opinions in the area dealing with the substance addictions section this government turned the amendment down, so we have been consistent on this point.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

The next motion would appear as 74E in your package. It's a Liberal motion related to schedule B, subsections 12(4) and (5).

Mrs Papatello: I move that section 12 of schedule B to the bill be amended by adding the following subsections:

"Annual report

"(4) A person appointed to act for a recipient shall submit an annual report of how the allowance was administered in the prescribed form.

"Same

"(5) A recipient who has had a person appointed to act on his or her behalf has the right to request a report of how the allowance was administered."

The purpose of this: Obviously we expected you not to be passing the amendments previous but I suggest that if you're going to go forward with this ill-conceived manner of dealing with people's money, hence their whole lives, then I would recommend you putting in some kind of a safeguard so that at minimum the person who is receiving this through a trustee who is going to be appointed by a director only has some kind of ability to ask for information. After all, it is their money. There can't be any reason why someone shouldn't be able to get an annual report of the handling of their financial affairs. Frankly, whoever has been appointed should be able to have a report prepared of how this money was being administered. It only makes sense — again, I disagree with the whole concept — if you insist on doing this, at minimum, if you include some kind of safeguard.

The Chair: Further discussion? Very well. All in favour of the amendment? Opposed? The amendment is defeated.

If you'll just give me one moment, we are trying to make sure that we get these things in the right order. The next one we will deal with is number 77 in your package. It's an NDP motion dealing with schedule B, subsections 12(4) and (5).

1120

Mrs Boyd: Madam Chair, I believe it should actually say (4), (5), (6) and (7).

The Chair: The title of the motion is incorrect but the substance of the motion deals with (6) and (7).

Mrs Boyd: I move that section 12 of schedule B to the bill be amended by adding the following subsections:

"Report

"(4) A person acting for a recipient under this section shall submit to the recipient and the director an annual report of how the recipient's income support was administered, as prescribed.

"Same

"(5) A recipient on behalf of whom a person has been appointed may request that the person report to the recipient on how the recipient's income support was administered and if the recipient does so, the person shall give the recipient a written report within 30 days after the request.

"Offence

"(6) No person appointed to act for a recipient under this section shall knowingly misappropriate or misdirect money received on behalf of the recipient or breach an obligation imposed on the person under this act.

"Penalty

"(7) A person who contravenes subsection (6) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both."

The purpose of the amendment quite clearly is to at least set in legislation parameters for ensuring that in this absolutely outrageous imposition of an informal trustee there is still protection for the vulnerable disabled person. It talks about how there can be an acceptable accountability to the recipient and also to the system, that the money has in fact been spent appropriately, but also a protection making it a provincial offence under this act for someone to misappropriate or misdirect funds in a way that might be fraudulent.

This government is very fond of talking about how likely welfare recipients are to commit fraud, but in fact we know from the experience of many people, many vulnerable people in our own system, that very often the people who experience fraud are welfare recipients themselves, if they are subjected to inappropriate behaviours by landlords or by people who run care homes, that sort of thing. There is lots of evidence for that. So the purpose of this is that if the government is insisting upon this unacceptable process in the first place, at least they should be prepared to guarantee some protections to people if one is to, in any way, take seriously the words they use about trying to be protective of the disabled.

Mr Carroll: A quick comment on that: Mrs Boyd, we certainly agree that there should be some accountability,

and our next amendment coming up does put in a requirement to report. That is in that amendment. Second, the whole area of offence and penalty provisions is dealt with more appropriately in the civil law of the country so there is no need to repeat it in this statute.

Mrs Boyd: I think that if you have it in this act, then the onus is very much upon the administrators of this act to be aware that they have a responsibility in this as well. I would say to the member, to the parliamentary assistant, that their proposed amendment simply says, "A person appointed under this section to act for the recipient shall report and account in accordance with the regulations." Again, what regulations? How do we know what those regulations are going to be? How do we know that they are going to be protective enough to ensure that these individuals are not further disadvantaged as a result of this informal trusteeship?

There should be no such thing as an informal trusteeship to begin with, but if this government is going to insist upon it, at least they could build in clear protections to end some of the very appreciable level of fear that has been expressed by the disabled community about this aspect of the bill.

Mrs Papatello: I'm just interested in the comments of the parliamentary assistant. If that's the case and you are clearly feeling comfortable with some accounting measure in a reporting system, then why wouldn't you have supported the previous amendment that just outlined a reporting measure? The amendment that you just defeated included a reporting mechanism and now you've just stated to Mrs Boyd that you're comfortable that your amendment coming forward is bringing in a reporting mechanism for accountability. So why did you vote down the previous amendment?

Mr Carroll: Mrs Papatello, our amendment that we are coming up to does include a reporting requirement but also includes several other things that weren't in your amendment.

Mrs Papatello: But if the content in my amendment is what you have just said, why didn't you support it?

The Chair: Mrs Papatello, we have had the discussion on the previous amendment. I'd like to move on.

Any further debate? All in favour of the amendment? Opposed? The amendment is defeated.

The next motion is number 75 in your package. It's a government motion, schedule B, section 12.

Mr Carroll: I move that section 12 of schedule B to the bill be struck out and the following substituted:

"Appointment of person to act for recipient

"12(1) The director may appoint a person to act for a recipient if there is no guardian of property or trustee for the recipient and the director is satisfied that the recipient is using or is likely to use his or her income support in a way that is not for the benefit of a member of the benefit unit.

"Same

"(2) The director may provide income support for the benefit of a recipient to the recipient's guardian of

property or trustee or to a person appointed under subsection (1).

"Compensation"

"(3) A person to whom income support is provided under subsection (2) is not entitled to a fee or other compensation or reward or to reimbursement for costs or expenses incurred by acting under this section, except as prescribed.

"Report and account"

"(4) A person appointed under this section to act for a recipient shall report and account in accordance with the regulations."

As explanation of this, in subsection (1) of course we removed the provision that would have allowed social assistance staff to determine an individual's mental capacity. We agree that is more properly governed by the Substitute Decisions Act. Subsection (3) has been amended to provide compensation by the ministry to a trustee where it would be prescribed by regulation and subsection (4) has a new provision to provide greater accountability of appointed trustees as specified in the regulations. These deal with some concerns that we heard during our public consultation on Bill 142.

Mrs Boyd: These amendments simply make this section worse, in my opinion. To add in subsection (3) that a person may be compensated in any way for acting as an informal trustee puts people in even further jeopardy. It then becomes a complete conflict of interest for that person to do so and it adds to the inappropriateness of this area.

It is very important to note that there is nothing about prescribed circumstances here. The regulations will not protect a vulnerable person here. The director may do this and there is no limitation upon the director's ability to decide or not to decide whether a person "is likely to use" their income in a way that doesn't benefit a member of the unit. It is absolutely indefensible and will be seen to be such. Frankly, the addition of "except as prescribed" in subsection 12(3) of this act puts people in even further jeopardy than they were before.

1130

Mrs Pupatello: In order for any of us to vote on this amendment, in particular for subsections (3) and (4), as prescribed "in accordance with the regulations," could you please tell us what those are so we have some sense of what circumstances there could possibly be that you'll now outline in the regulation for compensation? What could they be? You must know, because you've made an amendment to that effect. In "Report and account" you've included "in accordance with the regulations," so you must know what that regulation is. We can't possibly agree unless you know what they are or what you're intending them to be.

Mr Carroll: I'm not exactly sure what the question means, but no, I don't know what the regulations are.

Mrs Pupatello: Could the ministry staff talk to us?

Mr Carroll: It's made several comments so far in the bill to "in accordance with the regulations," so I'm not sure why all of a sudden you need to know what this

particular regulation is. There are circumstances that will arise where it is appropriate that, say, a non-profit agency be allowed to act as a trustee on behalf of a recipient and it would fair that there be some funds available. I think that's a fair situation and I think the bill allows for that kind of situation to happen.

Mrs Pupatello: I guess you're talking about an administration fee that would then be payable to the non-profit. If I read this correctly, given the discussion we've had on the balance of section 12, the individual won't be choosing which non-profit agency is getting that administrative fee out of their lunch money. Basically, this is what we're saying here.

Mr Carroll: First of all, Ms Pupatello, it will not be coming out of their lunch money; it will be paid for by the ministry. To create the impression that the recipient is going to have to pay this compensation is erroneous.

Mrs Pupatello: But is that not the case?

Mr Carroll: No, it's not the case.

Mrs Pupatello: I just want to be clear here because you're telling me things. I admit that I'm not a lawyer. You may have some legal background and I don't, but I am very clear here. When I'm reading, I don't see where it says that the compensation will be paid by the ministry and not from the amount that's given as the allowance to the recipient.

Mr Carroll: You can take it from me that that's the intention, okay?

Mrs Pupatello: Does that mean that you have the regulation because you know that's the case?

Mr Carroll: No, I don't. I said I did not have the regulation. But you can take it from me that that's the intention.

Mrs Boyd: We know what the word of this government is worth, so that's not much comfort to people. Quite frankly, the member has made a statement that what is contemplated is payment of a non-profit agency. Can the parliamentary assistant tell us for sure that that is the only kind of agency that would ever be compensated for administering this kind of informal trusteeship? The reality is that many people — and obviously a growing number of people given the government's decision to close psychiatric hospitals — are in for-profit, private care homes.

If the member wants to guarantee and make it very clear here that only non-profit organizations would be receiving any fee — and the parliamentary assistant is well aware that it says nothing here about the government paying a fee; it simply talks about a fee. There is no guarantee that the individual will not be charged the fee. You have not provided for that in this section at all, and you're well aware of that, I know.

What you're saying here is that we should take on trust that people won't be further disadvantaged by your subsection (3). Given your record, no one can take that on trust. What we are asking for is this to be clarified ahead of time.

Mrs Pupatello: I guess I have to just continue on here. This whole new section that you've brought in as an amendment was clearly brought in for a particular reason

that wasn't covered in the initial section 12. Something in terms of information came across your desk that resulted in the writing of additional sections here.

If we can get some further information, in the "Report and account" section, what is your view of what that reporting and accounting will be? Did someone think that if you saw an annual report — that it would be quarterly; that it would be given directly to the director; that it would go to directly to the recipient on request; that it would be an informal kind of reporting; would it be oral, would it be written?

The reason I ask those questions is because we're dealing with ODSP. Some people can't read; some people can't see. If only what you'll have in regulation is that a report will be submitted in writing annually. Then what good is that to the blind person, or whomever, whose interpreter may be the trustee? Do you follow?

I just have to understand that you brought in an amendment and you wrote it, so you have some sense of why you needed this. If you haven't written a regulation yet, you know what you're going to write. At least put the intent on the table of what you intend the reporting mechanism will be like.

Mr Carroll: Our intention with the reporting mechanism was in answer to comments that we heard at the committee that a trustee that is appointed should be held accountable. We agree. We've put the provision in here that they will be held accountable by regulation.

Mrs Papatello: Could I ask the ministry staff if they have any additional information that the parliamentary assistant may not be privy to? Given the recent journalism reports of late, I wouldn't be surprised if that's the case, the way it circumvents process these days. Can the staff tell me what intention there is? Is there any other part of the ministry anywhere where there is a reporting regulation that you might be copying, something somewhere that says, "Here's a regulation and this is what it means when we've written 'reporting mechanisms'?" Is there any case that you're going to use?

Mr Carroll: I'm not so sure where this is going. Subsection (4) says there will be a reporting mechanism. That is in response to concerns we heard. The regulation is not ready. Quite frankly, that is all the information we have available to share with you today.

Mrs Boyd: Under the current act, even if a person is in an institution like a care home or even a psychiatric facility or a home for the developmentally disabled, the one guarantee they have is an allowance of \$112 a month that will be theirs free and clear to use as they choose. In this act, and certainly under this section, there's no clarity that there would be any requirement on the part of this informal trustee to ensure someone has that basic disposable income, if you like, of \$112 a month which is now provided. Am I to take it that provision is no longer available to someone in the act, particularly if they're under trusteeship?

Mr Carroll: Does anybody have an answer to that?

Mr Kirk: Section 3 of ODSP talks about eligibility for income support and it talks about the eligibility of a

disabled person and other prescribed classes. For the people who are currently in institutional settings, the intention is to continue to pay those who are the responsibility of the Ministry of Community and Social Services the personal needs allowance.

Mrs Boyd: Just clarify it for me. There is no requirement for an informal trustee under this section, where they're going to be looking after the allowance for someone, to make sure the person has some disposable income. Is that correct?

Mr Kirk: If the person is eligible for the personal needs allowance of \$112, then the expectation would be that the person would receive that personal needs allowance of \$112. If they were in an institutional setting and they had an informal trustee, the expectation would be that that \$112 would be made available to the recipient. Through the reporting mechanism we would be able to ensure that is in fact the case.

Mrs Papatello: Because there are some cases where non-profit agencies currently act as trustees for their clients and it is a voluntary kind of arrangement, unless it's through some other mechanism. For example, Community Living, through their group homes, takes care of clients. Can you tell me if currently the practice is that part of the allowance that the recipient receives goes to an administration fee to Community Living? What is the current arrangement?

1140

Mr Kirk: Not to my knowledge, no.

Mrs Papatello: If it's the case that currently, as far as you know, these agencies or non-profits are not receiving moneys but there are instances where non-profit agencies are doing this — in Windsor's case on behalf of adults who have disabilities, and most of them are developmentally delayed, as far as I know, who are in this arrangement — why is there a change now that would allow it, whether it's through the ministry paying or the recipient paying some portion? Has something come to light now that these agencies should be paid for things that they are currently doing?

Mr Carroll: Are you suggesting, Mrs Papatello, that you don't think there should be any provision for any compensation?

Mrs Papatello: No. What I'm asking is, was that upon request of non-profits that they be paid for a service that is currently in practice in Ontario?

Mr Carroll: Does it make any difference who the requesters are? Are you suggesting that you don't think we should make any allowance for the provision of a payment to a non-profit organization that wants to act as a trustee?

Mrs Papatello: I guess the difference is you're the government and I get to ask the questions.

Mr Carroll: I understand that, but I'm trying to figure out where you're coming from on this.

Mrs Papatello: I'm trying to see why you would bring in a paragraph as an amendment — it wasn't in the original bill. We went through a public hearing process. In all of the days that I travelled, and I was consistently on every day and heard all of the submissions, I didn't hear

one submission regarding a non-profit agency requesting compensation. I didn't hear any of the disabled community coming forward and saying, "I want to pay an administration fee to those who might be appointed trustees." There was nothing presented during the process that would have led to this, because I saw them all and I read them all.

It's not in your original bill, so it wasn't anything that was masterminded before it went on the road. It's come forward in an amendment. Something clearly has come to light within the ministry, within the government, whatever, to add a clause, "Compensation: A person to whom income support is provided...is not entitled to a fee...." You've identified where money can't be given to someone and you've also identified that according to regulations there will be instances where money can go to someone else. It doesn't specify in the bill that this compensation isn't part of the allowance of the recipient and it doesn't indicate that it isn't part of that allowance. It just doesn't say at all.

We don't know the regulations. You are not giving us even an inkling of what might be in the regulations or the intent of the regulations. You've not told us the regulations, you've not told us the intent, you haven't told us why it suddenly appeared as an amendment, and you want to sit back and ask me questions about this? No. The point is, we want to discuss as a group and have a vote on an amendment that you clearly made for a particular purpose. I feel that we deserve at minimum the rationale, the real rationale, not to sort of poke holes and say, "You don't feel non-profits should be paid?" I come from the non-profit sector. I know exactly what its role should be. I don't suspect you would want to be questioning me in this area.

The point is, I insist on knowing the background. Your government members should know the background, because I don't think they came in here with blinders on. I don't want to be lectured to. I want to know why you're doing this, because you're affecting many people. I believe we are owed that much. Don't make light of this. This is a significant section of the bill. I haven't spent that much time talking about other regulations, amendments, proposals here. But there are certain parts of this that are totally offensive to me and to my party, and I think you could, at minimum, give us the real reasons why you've elected to put additional amendments in this bill, which you are going to pass anyway.

Mr Carroll: I have no more comment.

Mr Preston: I think you've started using terminology and instances that are not even part of this bill. The use of the word "fee" specifically —

Mrs Papatello: It says "compensation."

Mr Preston: During this discussion —

Mrs Papatello: What do you think they're going to bring them, a sack of potatoes in exchange for service?

The Chair: Mrs Papatello, you will be allowed to speak if you wish to speak again. Mr Preston has the right to speak uninterrupted.

Mrs Papatello: Don't patronize us, for Christ's sake.

Mr Preston: I don't think he has anything to do with that. Right now I'm speaking.

The word "fee" is specifically in here; it says they're not entitled to a fee. The words "non-profit organization" are not in here either, but we've decided during our discussions that we're talking about a fee being paid to a non-profit organization. Now, has anybody thought that possibly Joe Public, who is made a trustee, should be compensated for out-of-pocket expenses — long-distance telephone calls, cheque charges, stamps — so that this does not become something that is costing a trustee anything? I don't think it's the intent of this part to make the trustee profit by it. I think it's to take care of out-of-pocket expenses. The word "fee" and the word "non-profit" are not mentioned in here at all. We've manufactured that.

Mrs Boyd: The word "fee" is clearly mentioned here.

Mr Preston: And "not entitled to" is also previous to "fee."

Mrs Boyd: "Except as prescribed." That is our objection, "except as prescribed." It carries on. If you read very carefully, the "except as prescribed" refers to all of those things. There is nothing in this amendment that suggests that the fee or compensation or reward or reimbursement will not come out of the allowance of the individual. That's our number one objection. Our number two objection is that we have no idea what will be prescribed. The parliamentary assistant suggests it would only be in a case of a non-profit corporation, but he doesn't guarantee that and certainly neither do the ministry staff.

My real question here is, who has the ultimate fiduciary responsibility here? Is it the director? Is it the person who's appointed? Who has the fiduciary responsibility for the subsistence income of someone who is assigned an informal trustee to look after their money? Perhaps counsel for the ministry could answer that.

The Chair: Response? Mr Carroll?

Mr Carroll: I have no more response on the issue. I think we've talked it to death.

The Chair: Legal counsel?

Ms Fraser: With respect to the issue of fiduciary responsibility, if someone is appointed a trustee, it is that person who is the fiduciary.

The Chair: Thank you. Is this a new point, Mrs Boyd? Mrs Papatello was on the list as well.

Mrs Boyd: It is a point on that because this does not say someone is being appointed a trustee. What this amendment says is, "The director may appoint a person to act for the recipient if there is no guardian...or trustee...." I want clarification from counsel. Is counsel saying that the person appointed by the director to act for a recipient under this amendment becomes a trustee?

Ms Fraser: Madam Chair, I have nothing to add re this response.

Mrs Papatello: I guess for the government members who want to join the fray here, all of the questions that you placed are the same questions I placed, and that's exactly why we need to have clarification of the intent of

what's going to be in regulation. If it's not going to be in the bill, and you want to make an argument that you want to keep a very specific important piece of information only in regulation so that it can be changed at whim of a government or a minister or cabinet without ever coming into the House, fine, you make that argument. But at minimum, while you ask the questions of, "Is it pocket change, is it stamps, is it driving to and from the grocery store?" those are exactly the questions I'm asking.

When you have a very informal process that's going to appoint someone to be responsible for someone's income, their very livelihood, how they live, where they live, when and what they do something will be totally controlled by someone who's just appointed at whim. That's exactly what the bill reads. You may want to look at those facts, but when you ask questions like, "They must mean it's for stamps," I would like to hear from the parliamentary assistant that it is the government's intention that when they write the regulation it will cover out-of-pocket expenses for such things as paying bills on behalf of the individual, that it would be for such things as an administrative fee to a non-profit for taking care of whatever. The sense I get currently is that they don't know and that when you have that, it is completely open to interpretation when whoever, at whatever time, is writing a regulation, if they choose. The non-profit sector is very hard done by under this current government. They are having an enormous amount of difficulty raising funds, not like in the past. This is very different now because the playing field is very crowded.

1150

This would be an opportunity for non-profits to collect some kind of administrative fee, given the service they're providing to their clients. Is it in fact coming out of the ministry's pocket or the pocket of the recipient? If it's not clearly coming out of the recipient's pocket, it should be on record today at committee that it is not coming out of the recipient's pocket, that it is definitely coming out of a different bag of money: the ministry's. To say that here for sure and clearly, if that's truly the intention, there shouldn't be any problem with that. Frankly, it's an embarrassment to see that the parliamentary assistant chooses to be silent on this issue when it could truly mean a very different style of living for certain individuals who reside right here in Ontario.

The Chair: Further debate? All in favour of the amendment? Opposed? The amendment is carried.

Shall section 12, as amended, carry?

Mrs Papatello: Recorded vote, please.

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Boyd, Papatello.

The Chair: Carried.

Section 13. We'll continue with the normal order now. We're on page 77.

Mrs Papatello: This is continuing in the same vein we've been in for the last hour or so.

I move that section 13 of schedule B to the bill be amended by inserting after "recipient" in the third line "on the agreement of the recipient."

The purpose of the bill is, once again, to include the recipients in decision-making that truly alters their way of living — what they do, when they do it, how they do it, where they live and all those things. It is incumbent upon the government to continue to put some kind of safeguard in this bill that's going to ensure in the area of money being paid to a third party that it be done consensually, with agreement. By making and accepting this amendment, you would be doing that, at minimum in this area of money being paid to a third party.

The Chair: Further discussion?

All in favour of the amendment?

Mrs Papatello: Recorded vote, please.

Ayes

Boyd, Papatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The motion is defeated.

Mrs Boyd: I move that section 13 of schedule B to the bill be struck out and the following substituted:

"Money paid to third party

"13(1) A portion of income support may be provided to a third party on behalf of a recipient if an amount is payable by a member of the benefit unit to the third party for costs relating to shelter and the recipient requests that it be provided to the third party or consents to its being provided to the third party.

"Same

"(2) The amount provided to the third party shall not exceed the maximum shelter allowance payable to the recipient.

"Same

"(3) If a recipient or trustee disputes the amount of money to be paid to a third party under this section, and notifies the director of that fact, no portion of income support shall be provided to the third party until the dispute is finally resolved.

"Offence

"(4) No person shall provide false or misleading information to the director or withhold relevant information from the director in order to receive a payment under this section.

"Penalty

"(5) A person who contravenes subsection (6) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both."

The purpose of the amendment is to try and put limitations in legislation on this to make it clear that the individual continues to be a party to the decision-making. We know there are provisions around this in the Substitute Decisions Act which protect people who are incapacitated. There was no protection for someone who, because a director decides they may not spend their money the way the director thinks they should, will not find themselves in this kind of situation. I think it is extremely important that we put some protections in place for vulnerable people, particularly when we have the clear evidence of a very extensive report by Dr Ernie Lightman around how people who are disabled are taken advantage of now by people who are presumably providing accommodations and care for these individuals.

This is not a matter of speculation; this is a clear matter of record that the exploitation of these individuals is a problem under the current act, and what the government is doing by this act is just perpetuating that kind of exploitation, only extending it well beyond what it was before.

Mr Carroll: The requirement for a request or consent actually defeats the whole purpose of third-party payments and could easily lead to a more cumbersome, more restrictive situation of a trustee being appointed. We believe this amendment would defeat the purpose of third-party payments. Also, we believe it could jeopardize the beneficiary. A final item is regulation-making authority under section 54 to provide for the rules surrounding the whole area of their payments.

For those reasons, we do not support this amendment.

Mrs Boyd: Could I have some clarification from the parliamentary assistant? In what way would this jeopardize the beneficiary?

Mr Carroll: It's the government's belief that in some cases where it would be approved, it's in the best interests of the recipient that someone make sure their rent is paid so they don't find themselves evicted, and if they're not capable of making that decision themselves, then we believe it is in their best interests that somebody pay that rent directly on their behalf to make sure they have a place to stay.

Mrs Boyd: There is already provision in law in the Substitute Decisions Act around capacity. This is all based on the government's beliefs about people who are in receipt of social assistance, their belief that you can't trust people who are in receipt of social assistance to meet their financial obligations. If someone is incapacitated, is incapable of making those decisions, there is a procedure under the law of Ontario to make that determination.

What the government is doing is extending that well beyond the issue of capacity and is making a social judgement, dragging us back to the days of Dickens, when the all-meaning government made a decision that people who were poor were to be punished for being poor by being put in the workhouse or put in the poorhouse or put in debtors' prison. This is exactly what this is all about. This is all based on ideological belief, not on reality. It certainly takes no account of the rights of the individual.

Mrs Papatello: I'd like some clarification about what's going to happen in regard to third-party payment. The assistant mentions the area of rent. If there are individuals who are renting an apartment, for example, and the roof is leaking and it's falling in and the landlord refuses to fix that, as we've seen in examples through schedule A of this bill, what recourse does the individual recipient have to stop the rent being paid until the roof is fixed?

Mr Carroll: My understanding is that any recourse that tenants would have would not be impacted by pay-directs.

Mrs Papatello: Could you explain that, please?

Mr Carroll: My understanding is that any recourse that tenants would have would not be impacted by pay-directs. It's pretty straightforward to me.

Mrs Papatello: Which means that the payment will continue to be made to the landlord.

Mr Carroll: No, I didn't say that. I said any recourse that tenants would have under the Landlord and Tenant Act would not be negatively impacted by pay-directs.

Mrs Papatello: I guess in interpretation — you're going to have to clarify this — there's some avenue for this recipient of ODSF to stop the third-party payment until the roof is fixed.

Mr Carroll: Tenants have recourse to negligent landlords under the Landlord and Tenant Act. They would not lose those with pay-directs.

Mrs Papatello: But they don't have any way to get to whoever has decided is doing the third-party payment in this case.

1200

Mr Carroll: Are you aware, and Ms Boyd, that this practice of pay-directs is already in effect?

Mrs Papatello: Yes, I am, and you are aware, parliamentary assistant, that it is consensual at this point and you are making it mandatory? You are aware of that?

Mr Carroll: We're making it mandatory. We're suggesting that where a tenant has not demonstrated an ability to pay their rent consistently, then it's in their best interests that somebody makes sure it's paid on their behalf. By doing that, they do not give up what rights they have under the Landlord and Tenant Act.

Mrs Papatello: So you agree that it's happening now and it's happening by agreement, not by a mandatory nature such as what you're presenting?

Mr Carroll: The question you asked about giving up their rights, they do not give up their rights under the Landlord and Tenant Act by pay-directs.

Mrs Boyd: Quite clearly under the GWA, yes, there can be an assignment of rent. People who are disabled are not under the GWA; they're already under family benefits, a different situation. These people are now being put in under a regime that they were not under before. We're talking about this part of the act. They were not under that before. These are the people who were on family benefits. In family benefits, that could not happen.

Second of all, a director makes this decision without any kind of due process that somebody needs a third party

to look after their money. There's no limitation on that third party and conflict of interest for that third party. Ms Pupatello is saying that the likelihood is that the third party may very well act in the position of a landlord, particularly if we're talking about care homes, which we have to talk about because that's the most problematic kind of situation. If the landlord is the third party, the landlord will keep on paying himself or herself the money. You talk about recourse under the Landlord and Tenant Act — talk about double jeopardy for somebody. This is exactly what we're worried about.

There are no prescribed circumstances. Remember, you just passed your amendments. There is no prescribed circumstance for the director. There is nothing in regulation to prevent the director from naming somebody who has a conflict of interest, like a landlord or a care giver. There is nothing like that in this act. What you have done is made disabled people absolutely vulnerable to care givers and landlords under this act.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 13 carry? All in favour?

Mrs Boyd: A recorded vote.

Ayes

Carroll, DeFaria, Bob Wood.

Nays

Boyd, Pupatello.

The Chair: The section is carried.

Section 14: 78A.

Mrs Pupatello: I move that subsection 14(3) of schedule B to the bill be amended by striking out "or the recipient's spouse" in the second line.

The Chair: Discussion?

Mrs Pupatello: This has come up repeatedly in this bill, where for example directors or supervisors will not be aware of conditions surrounding the spouse: if there is any relationship, if the relationship is legal, if the people may still be living together etc. To suggest that recovery of overpayment can be borne by the recipient's spouse I think is very inappropriate. This has come up time and time again and we would suggest that whole clause be struck out. Removing "or the recipient's spouse" clearly puts the onus on the individual who is the recipient.

The Chair: Further debate? No. All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Boyd: I move that section 14 of schedule B to the bill be amended by adding the following subsections:

"Exception

"(5) This section and sections 15, 16 and 17 do not apply with respect to an overpayment,

"(a) that was the direct result of the failure of the director to act on information received within a reasonable time;

"(b) that was the direct result of an error in determining the amount of income support;

"(c) that was the direct result of an error in judgement on the part of the director; or

"(d) that was due to the error or neglect of a person who received money on behalf of a recipient under section 12."

This is again an effort to ensure that those who are disabled are protected from the errors of both those administering their benefit plan and other people who might be assigned that responsibility as informal trustees by the plan. It would apply not only to section 14 but also to 15, 16 and 17, all of which are concerned with overpayment.

Mr Carroll: Just a quick comment on this. We believe that prudent use of the taxpayers' funds requires that if money is paid to someone in excess of what they are entitled to under any program, that money should be recoverable. That is the practice with other government programs such as employment insurance. For that reason we cannot support this amendment.

Mrs Boyd: This is simply leaving the door open to the kind of slack administration that has been problematic in the past and particularly makes it very difficult for people who are in receipt of funds. The director is not required, under this act, to inform someone that there's been an overpayment.

Picture this: A disabled person gets a cheque. It comes from whoever is administering this in their particular locale. Nothing has changed for them. They have no reason to assume that the amount of that cheque is not correct. We're talking subsistence allowance here. People don't have a whole lot of money set aside so that if the government makes a mistake they can suddenly pay back the money the government made a mistake on. Governments for many years have had to write off their own errors to a large extent, some years larger than others, because of bad administration. The onus should not be on the individual to pay for the mistakes of the administrator of the plan.

Mr Carroll: I agree that the onus should not be on the individual to pay for the mistakes of the administration. However, if individuals receive money to which they are not entitled, there is an obligation on the part of the individuals to repay the funds.

Mrs Boyd: The person does not know they're not entitled. They're given this money by the department, they spend the money and the next month they're told that they owe part of that money back. Although they're on a subsistence allowance, money gets deducted from their next month's cheque because of an error on the part of the department. If you read through this bill, there's no limit on the length of time it may take to make a repayment through no fault of their own. There's no requirement on the director to inform them that there's been an overpayment. They just suddenly get a different amount on their cheque and they don't have any explanation for that, necessarily, because there's no requirement to give an explanation and they have no recourse.

If they were doing something wrong, if they had a reason to believe that the money they were getting was the wrong amount of money, the punitive attitude of the parliamentary assistant might be appropriate. But the number of times the errors are made and accumulate over months and months, and the errors are on the part of a worker in the department, it is not appropriate to expect someone then to go through months and months of inadequate resources because someone in the department made an error. That's ridiculous.

The Chair: Further debate? No. All in favour of the amendment? Opposed? The amendment is defeated. Ms Pupatello.

Mrs Pupatello: I'll withdraw — similar.

The Chair: All right. Shall section 14 carry? All in favour?

Mrs Boyd: A recorded vote.

Ayes

Carroll, DeFaria, Bob Wood.

Nays

Boyd, Pupatello.

The Chair: Section 15, any discussion? No. Shall section 15 carry? All in favour? Opposed? Section 15 is carried.

Section 16.

Mrs Boyd: I move that subsection 16(1) of schedule B to the bill be amended by striking out "and the prescribed information concerning the decision" at the end and substituting "the reason for the overpayment and the basis for the calculation of the amount owing."

This is to get at this issue that I discussed before, that it surely ought to be the right of the recipient to understand why there was an overpayment and how the repayment is being calculated.

1210

Mr Carroll: As we stated under Ontario Works, we believe that this type of thing is more appropriately left to the regulations.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Pupatello: I move that subsection 16(1) of schedule B to the bill be struck out and the following substituted:

"Notice of overpayment

"(1) The director will give a recipient notice in writing of a decision determining that an overpayment exists and the notice shall set out the amount of the overpayment, the reason for the overpayment and the basis for the calculation of the amount owing."

The purposes, as described earlier, are clear. We have significant difficulty with the notice of overpayments. Often recipients, depending on their circumstances, will not have access to regular mail, may not get it, the mail could be slow. We think that there's something to be said

about the ministry's responsibility to ensure that people are aware of situations and we think that this substitution of notice of overpayment would much improve the circumstance.

The Chair: Further debate? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Boyd: I move that subsections 16(3), (4) and (5) of schedule B to the bill be struck out.

The reason for subsection (3) is that a decision like this ought to be appealable. For the government yet again in another piece of legislation to try and limit the appealability of its decisions is not appropriate and is very prejudicial to the rights of individuals.

Subsections (4) and (5) involve the dependent spouse. This is particularly serious and this issue has been raised again and again around the kind of jeopardy a dependent spouse is in with the provisions of this bill. It is not appropriate that a dependent spouse should in any way feel responsible for reimbursement around an overpayment.

Mr Carroll: Subsection (3) talks about "the decision of the tribunal shall be final and enforceable against the recipient...." We believe this is an accountability provision that is required in the act.

As to the issue of the spouse, our belief as a government is that if the spouse was a beneficiary of the overpayment, then, as with other spousal debts, the spouse should be responsible for repayment of the overpayment. We think that's consistent with practices in other domains. For that reason we are opposed to this amendment.

The Chair: Further debate? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Pupatello: I withdraw — same.

The Chair: Thank you. Shall section 16 carry? All in favour? Opposed? The section is carried.

Section 17.

Mrs Pupatello: I move that section 17 of schedule B to the bill be amended by striking out "whether or not notice has been provided under section 16" at the end and substituting "subject to the conditions under section 16."

The purpose of this: Section 17 discusses recovery of overpayments. We can't imagine why you would not subject it to the conditions set out under the previous section 16. As was mentioned by the parliamentary assistant a moment ago, this is intended to be a safeguard somehow, so we can't imagine that this wouldn't apply in section 17 as well. It just makes sense to include "subject to the conditions under section 16."

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 17 carry? All in favour? Opposed? The section is carried.

Section 18.

Mrs Boyd: I move that subsections 18(2), (3) and (4) of schedule B to the bill be struck out.

The issue here is that this is a subsistence income that individuals are receiving and it is not appropriate, in our opinion, for the total amount to be deducted to pay other government debts out of that subsistence amount.

Mr Carroll: The government's position is that there is a responsibility of someone receiving income supports under the ODSP to be in a position to be required to make some sort of commitment to outstanding child support in government debts. For that reason we are opposed to this amendment.

Mrs Boyd: We are talking here about disabled people whose needs are quite extreme in many cases and whose access to income under this act is unlikely even to meet their basic needs. We've seen lots of evidence of that. Subsection (3) says, "The total amount deducted from income support...shall not exceed the prescribed amount unless the recipient agrees to a greater amount."

We don't know what the prescribed amount is going to be. Since we are looking at an allowance that barely covers the basic needs of shelter, clothing and food, and if they're fortunate the opportunity, as this government would put it, to pay copayments for drugs and that sort of thing, to then leave this possibility that support, for example, might be deducted from this is extremely punitive.

We're talking here about disabled people. We're talking about people who are unable to earn their living because of a disability. We're not talking about people who choose not to work or people who may be temporarily out of work. We're talking about people who are disabled and are on this allowance because it is the only way to get their basic needs met. They didn't plan to become disabled. They're not voluntarily giving up their responsibility to their children or their responsibility to the internal revenue department or something. They have had a reversal of fortune, in many cases, which has caused them to be disabled, and if they are under this plan they are unable to earn other income.

If we subscribe to this as being a plan that meets the basic needs of people and then we said, "Oh yes, and by the way, without limiting this in legislation, making it up to the whim of the government of the day, we can force these people to pay debts out of this subsistence income," it becomes quite absurd and it certainly puts the lie to the claim that this is going to be so much better for disabled people than the current circumstances.

1200

The Chair: Further discussion? Very well. All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 18 carry? All in favour? Opposed? The section carries.

Section 19.

Mrs Boyd: I move that section 19 of the schedule B to the bill be struck out and the following substituted:

"Notice of decision

"19(1) Where the director proposes to refuse, cancel or suspend income support, he or she shall give notice to the applicant or recipient together with the reasons for the decision.

"Same

"(2) If the decision is one that may be appealed under this act, the notice shall inform the applicant or recipient

that the decision may be appealed, that an internal review must be requested before the appeal and how to request an internal review and an appeal."

This is the kind of informational piece that is absolutely essential to those who need to depend upon this plan for having their basic needs met. They have a right to know, first of all, if they're going to be refused and, second of all, why they're going to be refused. They need, as has been the cry all along, to know how they can appeal that decision. It is simply a matter of trying to ensure that individuals are able to carry through and know what their rights are under this, since this is a plan to provide them with subsistence income.

Mr Carroll: We find this amendment unacceptable for a couple of reasons. Number one is, a proposal is not a decision, therefore there's an inconsistency there. The second thing, there are several provisions in the bill, appropriate provisions for providing notice to recipients. For those reasons we cannot support this amendment.

Mrs Boyd: It is not clear in section 19 which decisions are going to be appealable and which ones are not. If we go on to section 20, we talk about a decision that is appealable, and this happens, but we don't define what is appealable and what isn't in this section. It's important that if people are being refused for a reason that's appealable, they understand that, and if they are being refused for a reason that's not appealable, that they understand that.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Pupatello: I move that section 19 of schedule B to the bill be struck out and the following substituted:

"Notice of decision

"19(1) Where the administrator proposes to refuse, cancel or suspend benefits, he or she shall give notice to the applicant or recipient together with the reasons for the decision.

"Same

"(2) If the decision is one that may be appealed under this act, the notice shall inform the applicant or recipient that the decision may be appealed and how to request an appeal.

"Final avenue of appeal

"(3) The Ombudsman of Ontario remains the final avenue of appeal of any decisions made by the tribunal."

That's supposing that we have an Ombudsman left. That was my addition.

The whole purpose is as was described earlier. One of the greatest difficulties of individuals who are accessing this current government is a lack of information, a lack of awareness as to the process, what possible avenues they have available to them. We feel it's important to put it in the bill. A recipient needs to know that there's an appeal available to them, that they can request it and exactly how they do that. The final avenue of appeal, the Ombudsman of Ontario, who has been completely ignored to date by the current government, should remain, at least have some availability, so that there would be decisions made by the tribunal which then could be taken to the Ombudsman,

while I acknowledge that the record so far of this government has been abysmal in taking up the recommendations made by the Ombudsman.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 19 carry? All in favour? Opposed? The section carries.

Section 20, any discussion? All in favour of section 20? Opposed? Section 20 carries.

Section 21.

Interjection: Mine are not numbered.

Mrs Papatello: I have 84A. What's the government's?

The Chair: They're in the wrong order here; my apologies. Wait just a moment till I find where we are. The orders have been inverted.

Mr Carroll: I move that section 21 of schedule B to the bill be amended by striking out paragraph 4 of subsection (2).

This amendment of course responds to the criticism we had from the Ombudsman, and quite frankly from other groups, that not having a right to appeal the appointment of a trustee is a fundamental denial of justice. This amendment ensures that in fact the appointment of a trustee would be appealable to the Social Benefits Tribunal.

Mrs Boyd: I'm glad that the parliamentary assistant has decided to heed at least some of those concerns. I would caution him against using the terminology of "trustee." That is not the language in the act. The act has "a person to act on behalf of a recipient." Counsel for the ministry has refused to confirm that that person is the trustee within the meaning of "trustee." Therefore we are talking about a person who's appointed to act on behalf of a person, not a trustee. At the very least the parliamentary assistant should be talking about an informal trustee when he tries to discuss this issue.

The Chair: Further debate? All in favour of the amendment? Opposed? I see none. The motion carries.

Mrs Papatello: Is mine in order?

The Chair: You're 84A.

Mrs Papatello: Is it still in order, given the last —

The Chair: The previous motion only dealt with paragraph 4. Yours deals with 3, 4, 5 and 6. You may withdraw if you wish.

Mrs Papatello: No. I don't know if it's in order. I guess that's my question.

Mr Carroll: Madam Chair, just a point of order: Does the fact that paragraph 4 is no longer part of the bill, due to the previous amendment, not rule this amendment out of order?

The Chair: Just give me a second, please. I think you can proceed with it, Ms Papatello, but if you wish to withdraw it you may.

Mrs Papatello: I prefer to proceed.

Mr Carroll: Madam Chair, just a point of interest: An amendment that deals with a section of the bill that does not exist, how can that be in order?

The Chair: We'll proceed.

Mr Carroll: Madam Chair, may I have an answer to my question?

The Chair: I'd like to proceed, Mr Carroll.

Mr Carroll: Madam Chair, why am I not entitled to an answer to a very basic question of process? If an amendment refers to a section of the bill that has already been deleted, how is that amendment considered to be in order?

The Chair: I'd like to continue, please.

Mr Carroll: So I don't get an answer to my question?

Mrs Papatello: I move that subsection 12(2) of schedule B to the bill be amended by striking out paragraphs 3, 4, 5 and 6.

I can only suggest in my remarks concerning this amendment that I think if there is anything that's going to give any credence to the fact that you agree that there have to be checks and balances presented in the bill, people out there who are going to be directly impacted by this bill have to have some sense of justice when decisions are made for them. As we have seen by the defeated amendments so far, you refuse for the allowance of individuals with medical credentials to make significant decisions on the part of the disabled. You have repeatedly denied us amendments that would have placed safeguards in the system. Now you have subsection 21(2) that deals with the appeals process.

We believe that we need to strike out those paragraphs where you have clearly outlined where no appeal lies with the tribunal decisions "with respect to the following matters." I believe that this has to be changed, that you cannot stand up at any time and suggest that there is justice for individuals who are receiving this support if you do not pass this amendment.

1230

The Chair: Further discussion? All in favour of the amendment?

Mrs Papatello: Recorded vote.

Ayes

Boyd, Papatello.

Nays

Carroll, DeFaria, Bob Wood.

The Chair: The amendment is defeated.

Mrs Boyd: I move that subsections 21(2) and (3) of schedule B to the bill be struck out. The reason for this of course is that these two decisions — and they are "a decision respecting discretionary income support" and, second, "a decision of the Lieutenant Governor in Council respecting income support in exceptional circumstances" — must be appealable decisions. It is inappropriate that people not be able to appeal those decisions, since there is no basis for the making of those decisions in the act. The possibility of arbitrariness in this section is quite extreme and it is necessary, in my opinion, that people be able to appeal those decisions.

Mr Carroll: The government's position is that basic government policy is that those decisions not be

appealable. Therefore we find this amendment unacceptable.

The Chair: Further discussion? All in favour of the amendment?

Mrs Boyd: Recorded vote.

Ayes

Boyd, Pupatello.

Nays

Carroll, DeFaria, Bob Wood.

The Chair: The amendment is defeated.

Shall section 21, as amended, carry? All in favour? Opposed? The section is carried.
Section 22.

Mrs Boyd: I move that section 22 of schedule B to the bill be amended by adding the following subsections:

"Rights on review

"(5) The director shall ensure that before making a decision on an internal review, the applicant or recipient,

"(a) is informed of the case he or she must meet on the review;

"(b) receives any information of the director that may affect the internal review; and

"(c) is given an opportunity to make submissions to the director on the review.

"Same

"(6) An applicant or recipient has a right to be accompanied and assisted by counsel or a third party on an internal review.

"Assistance

"(7) In a review of a decision to reduce a recipient's income support, the director shall restore the amount of income support to the amount the recipient received before the decision, pending completion of the internal review.

"Completion of review

"(8) An internal review shall be completed within 10 days after it is requested."

The purpose of this is obviously to ensure that access to the internal review process be available for all decisions where there is going to be a real issue in dispute, whether or not that issue is appealable to the Social Benefits Tribunal. All of these decisions affect the subsistence level of these individuals on disabilities and therefore it is only appropriate that people know what case they have to meet. The onus is on the individual, as we talked about earlier, to indeed prove the decision was inappropriate. They can't do that unless they know the basis on which the decision was made.

It is essential that people, particularly with disabilities, have an opportunity to make submissions in such a review and that they have a right to be accompanied by a support person of their choice in such an internal review. We are quite cognizant, in subsections (7) and (8) that the government doesn't want what has happened in the past — very long periods of interim assistance, happening —

so we are putting (7) and (8) together so that in (7) until the decision is made the person receives the income, and of course the opposite is contemplated by the bill, but that review has to be completed within a timely fashion so that we do not have these long periods of interim assistance. I think that for sure everyone would benefit from a faster decision.

It is really important that there be due process here. If there is not due process, frankly it makes the whole bill vulnerable. I think it is very important that these rights for the beneficiary of assistance be added to the bill.

Mr Carroll: I agree with Mrs Boyd that the internal review should be completed in a timely fashion. That certainly is our intention. To that end, we see the internal review process as a very unstructured, very quick reassessment of the facts to determine whether or not the original decision was proper. We see this amendment as complicating it, putting some structure on it that in fact would cause it to take longer and defeat the original purpose of the internal review. For that reason, we cannot support this amendment.

Mrs Boyd: So I take it that the purpose of the bill here is to set up an arbitrary process that makes it impossible for the applicant to meet the onus of making the case. That's certainly what the parliamentary assistant is saying. In the interest of speed, we are doing away with everything that would make it possible for an applicant to meet the onus that has been put on them by this bill. It needs to be very, very clear that this is a considered and deliberate effort on the part of the government to ensure that people have no recourse under law.

Mr Carroll: I'd put just a little different perspective on it than that. I believe it is incumbent upon the government to allow that internal review process to proceed quickly for the benefit of the applicant, so that they can then take the next step if they choose to, to go to the tribunal. Hopefully, this whole process is set up to benefit the applicant and not strictly for the sake of speed.

Mrs Boyd: It is inconceivable that even in these days of Toryspeak that kind of interpretation can be taken seriously. It is never to the benefit of someone who is appealing a decision not to know what the reasons are for that decision and not to be able to answer the case.

The Chair: Further debate? All in favour of the amendment?

Mrs Boyd: Recorded vote.

Ayes

Boyd, Pupatello.

Nays

Carroll, DeFaria, Bob Wood.

The Chair: The amendment is defeated.

Mrs Pupatello: I move that section 22 of schedule B to the bill be amended by adding the following subsection:
"Standards

"(5) Notwithstanding this section, the following standards will apply to an internal review:

"1. The applicant or recipient has the right to know the reason for the decision under review and the right to know the case he or she has to meet.

"2. The applicant or recipient will have an opportunity to present his or her case and respond to all concerns.

"3. The decision-maker will be independent of the initial decision-maker and will strive to be impartial.

"4. The applicant or recipient will be informed of the reason for a decision to refuse or terminate assistance.

"5. The applicant or recipient will have right of access to his or her file in sufficient time before the review.

"6. The applicant or recipient will have the right to be accompanied by counsel or a friend where this is necessary for the individual to be able to participate properly.

"7. The applicant or recipient will have the right to present evidence and opportunity to respond to the administrator's concerns.

"8. The applicant or recipient will have the right to be heard in person if the issue involves personal credibility."

I just want to mention that it is inconceivable to me that an internal review would not include these items. I think if the general public were aware of exactly what the government is up to, they would be very surprised that the rights accorded to individuals in any circumstance, in any kind of their interaction with government at any level, if they were to understand that this government has gone out specifically with the intent of keeping information from individuals directly affected, it would be very surprising for people to learn that the moment you are on the system in the form of ODS supports, you have lost rights that are available to everyone in every instance. Quite frankly, individuals would not stand for this if it weren't for the fact that they are on government assistance.

1240

The Chair: Further debate? All in favour of the motion? Opposed? The motion is defeated.

Shall section 22 carry? All in favour? Opposed? The section carries.

Section 23.

Mrs Papatello: I move that subsection 23(1) of schedule B to the bill be amended by striking out "that shall include reasons for requesting the appeal" at the beginning.

This is in keeping with discussions we have already had to date on this issue, that it is necessary that information regarding reasons for the request of the appeal be set out in the beginning, because that whole area deals with the appeal to the tribunal. They're going to have to have reasons that are shared, and it's very difficult to understand why that wouldn't be set out in section 23.

The Chair: Further debate? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Boyd: I move that subsection 23(1) of schedule B be struck out and the following substituted:

"Appeal to tribunal

"(1) An applicant or recipient may appeal a decision of the director after the period for completion of an internal review has elapsed by filing a notice of appeal."

The purpose of the amendment is, instead of the prescribed time limit, to allow for that internal review to actually take place, because it is not clear, quite frankly, from the act here that the internal review is going to be completed. The other part of it, of course, is a similar sort of issue, taking out the reasons for requesting the appeal, as in the previous amendment by the Liberals.

No one should be prevented from appealing a decision because they have to produce reasons in order to appeal that decision, particularly when there is no obligation on the part of the director to give the reasons for the refusal in the first place. People have no way of providing anything except that they need to appeal because they think the decision is unfair, so it's just quite a ridiculous stipulation and ought to be removed.

Mr Carroll: To maintain the integrity of the appeal process, the government believes it's essential that appellants provide reasons for the appeal. Also, providing reasons provides all of the parties to the appeal process some advance notice of the basis on which the appeal will be brought and therefore they will be better prepared to deal with the issues. For those reasons we cannot support this amendment.

Mrs Boyd: The parliamentary assistant has simply made the argument that we have been making all along, that indeed people need to have reasons in order to be able to appeal anything. It's interesting that the government reserves this right for itself and not for recipients, and it certainly gives a full flavour to the kind of appeal process they're putting in place. Integrity and this appeal process have nothing in common and are in fact an oxymoron.

The Chair: Further debate? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Papatello: I move that subsections 23(5) and (6) of schedule B to the bill be struck out.

If we look at what (5) and (6) relate to, again they relate to notice to spouse. In (5) we have, "If an appeal relates to a determination of an overpayment of which the director has given notice to a dependent spouse...the spouse shall be added as a party," and in (6), "A spouse who has been added as a party...may not commence an appeal in relation to that determination."

We've got to think about this. Here we have a spouse — we don't know what the relationship is with the recipient — who has now been brought into this whole situation of potential overpayment or whatever the issue may be. The spouse who is directly affected has absolutely no right of appeal of a decision that will directly impact on that spouse, or they wouldn't have been brought in in the first place.

Before we go forward and government members choose to defeat this amendment, I need to understand what the rationale could possibly be to not allow the spouse the right of appeal when the spouse is brought into this process because they were directly affected.

The Chair: That's a question, Mrs Papatello?

Mrs Pupatello: Yes, please.

The Chair: Mr Kirk?

Mr Kirk: Subsection (5) allows that the spouse shall be added as a party. They then do become part of the appeal process. What subsection (6) does is make it clear that once the hearing has been held and a decision is made, the spouse cannot then go back and request yet another hearing on the same issue, because they've been added as a party, they've been part of the appeal process and they have had an opportunity to state their case.

Mrs Pupatello: For information, could you clarify if the spouse has a choice to be drawn in as a party, because this says the spouse "shall," but in your description just now you said "may."

Mr Kirk: If the spouse has been given notice of the overpayment, then the spouse "shall" be added as a party.

Mrs Pupatello: So the spouse has no choice but to be added as a party, but the spouse has absolutely no choice as to the outcome and the appealability of it then.

Mr Kirk: They're part of the process. If they're added as a party they're part of the process before the tribunal, and as a party before the tribunal they have an opportunity to make their submission and to state their case. Subsection (6), as I said, simply says that you can't hear the same appeal twice.

Mrs Pupatello: I want to give you an example of a couple who legally are spouses. Let's say that's the instance, the spouse who is living or not with the individual, is abused or not, intimidated or not, completely at the whim of the individual who is of the recipient. We know that this case occurs. We heard about it during our public hearings, and certainly if we get these kinds of calls in our constituency we are aware of situations that spouses may find themselves in.

My question is simple, for the staff of the ministry, likely, or the parliamentary assistant. You need to explain to me how the spouse, having no choice but to be drawn in, may or may not be — for example, one individual may say, "Here's what I'm doing with my money," or, "This is why I can't pay my money back; my spouse has it, my spouse has spent it," whatever. The spouse has no opportunity to not be brought in because she or he doesn't even live there. Once you've brought the spouse in, against their will, that spouse has no opportunity for appeal even though the outcome will directly impact on that same spouse. We know those situations exist. We know what coercion exists out there in the field. We heard that from people who came to present to us, and there is no safeguard anywhere. Not even in the appeal section is there a safeguard for individuals who find themselves in this circumstance.

Mr Carroll: Just a quick comment on this section. We are dealing with overpayments, and overpayments that the spouse was a beneficiary of.

Mrs Pupatello: You're assuming that, though, because you don't know that.

Mr Carroll: No, I said that in cases where the spouse was the beneficiary of an overpayment, then they would

be required to participate in the repayment of the overpayment. We think that's fair.

Mrs Pupatello: I guess you've made my point. You've made the assumption that the spouse is the beneficiary of the overpayment. Are you telling me that you are not aware of any circumstance or even the probability that a spouse perhaps is not the beneficiary of the overpayment? We heard that together. We were together during the public hearing process when that came forward.

1250

Mr Carroll: If the spouse was not a beneficiary of an overpayment, then the spouse would not be involved in the process.

Mrs Pupatello: But it's by no determination of that spouse whether they are or are not involved in the process. In fact, the other spouse is the one who can very well bring them into the process and they don't have a choice. Suddenly they are in the process and it's not appealable. Does any of that sound unfair in any way to you?

Mr Carroll: Not really. If a spouse was a beneficiary of an overpayment, was a recipient of an overpayment, then that spouse has an obligation to be part of the repayment of that overpayment.

Mrs Pupatello: But would you agree that there is nothing in here that would allow the spouse an opportunity, depending on the outcome of the decision — they can't appeal it. You're not certain that they have been a beneficiary. You're only assuming that they've been drawn in because the person who is trying to appeal is saying there is some reason to bring the spouse in, or the director or supervisor or front-line worker, whoever it is, brings the spouse in. The spouse has no opportunity here to say, "I wasn't a beneficiary."

Mr Carroll: They do, because they have an opportunity to participate in the appeal process.

Mrs Pupatello: Once that fails, for whatever reason, for the same reason that they came to us to speak with us, "Here's the law and here's what happens to us privately," the kind of coercion that goes on in the home, if the spouse is an abused spouse, for the sake of the children, all of that terminology, those are areas you are aware of. We heard about it together. I know you were listening to them. You know these are issues. Our greatest concern is in the area when you're bringing spouses into this field. You've got to, at minimum, give them the right of appeal as well, if they're being drawn in with no opportunity —

Mr Carroll: They have the right of appeal, Ms Pupatello.

Mrs Pupatello: They don't.

Mr Carroll: If you read sections 5 and 6, they are part of the appeal process. What this says is that as part of the appeal process, if they don't like the answer the tribunal brings down, they don't have the right to a second appeal. We think that's fair.

Mrs Pupatello: Quite frankly, that is not the case, because you don't know that they've been involved initially. They may not have been involved initially. In fact, the only time — and it could be the first time — that they're involved in the process is when they're brought in

on appeal. So it's not like there's a second go-round or third go-round for them. They've been coerced into participating by the government and they are coerced to live with the decision-making, with no right of appeal. That is what you're doing to these people. Predominantly they will be women and predominantly they may well be abused. Because of the way life is for these people, they will have no recourse thanks to your government.

Mr Carroll: Ms Pupatello, you put any spin you want on this.

Mrs Pupatello: That is the reality.

Mr Carroll: The act is quite clear. We have explained it satisfactorily, so you can put any spin you want on that explanation.

Mrs Boyd: In fact, if you read these — let's read them into the record:

"(5) If an appeal relates to a determination of an overpayment of which the director has given notice to a dependent spouse under subsection 16(4), the spouse shall be added as a party.

"(6) The spouse who has been added as a party to the appeal of a determination may not commence an appeal in relation to that determination."

They may not appeal the determination that they are a party to this issue. It's not what you describe, a double kind of thing; it simply says that if the director has decided and given notice that they are a party, they are a party no matter what the circumstances are. We had described to us by people why that might be inappropriate and why it might be dangerous in some cases for them to be involved in a situation, and how very frequently, particularly in abusive situations, spouses have absolutely no control over the situation and may not have even been notified themselves — if they have left, if they are in a shelter, if they are elsewhere — that they have been determined to be a dependant.

This decision that they're a dependent spouse is without their saying: "No, I left months ago. He kept on receiving social assistance as though I were there, as though the kids were there. That's where the overpayment comes from. Now I can't even appeal the fact that I'm being named as a party to this overpayment."

Mrs Pupatello: And be forced to pay it back.

Mrs Boyd: And be forced to pay it back. This happens again and again. I worked in this field for years and I can tell you that this is not an uncommon happening. So did the people coming before the committee make it very clear that the person who says they've been dependent during that period of time may well be the fraudulent person. You're allowing them no way of appealing the decision that they have been a beneficiary of the overpayment and they are not. They may not even have been in the home, but they have no way of knowing that he's been notified that she's a party to it. She's just not in contact with him. You're not getting the picture here.

Mr Carroll: With all due respect, Ms Boyd, you're saying they have no right of appeal. Subsection (6) says, "A spouse who has been added as a party to the appeal," so obviously if they're added as a party to the appeal,

they're part of the appeal process, they have an option to put their case forward. I don't understand why that does not allow them to appeal. Obviously you two have a different interpretation of this than I have. I believe it's quite clear. We have explained it to you and I don't think there's any more to say on the issue.

Mrs Pupatello: You may well think there is nothing more to say. You will recall the amendments that you've already defeated that included notices, that included how much time you're going to allow a letter to arrive somewhere. If you think of these instances and how they impact on a situation like this, could it be that a spouse wouldn't show up for the appeal because they don't even know there's one on, because they can't reach that person because you haven't put in any safeguard in terms of notification, even though we suggested we do that through amendments to try to recoup some kind of safeguard in this?

You've refused all of the amendments that would guarantee that a spouse would even know. So for you to suggest all of a sudden that because in section (5) "a spouse shall be added" is their right of appeal is ridiculous. It's absolutely ridiculous. You haven't done anything to directly combat the concerns we have for people who are in situations where life will be forced on them. In particular, you are going after a very vulnerable group. You've had the opportunity to accept amendments for safeguards and you've refused to do that. It's been pointed out to you again and again, and while you think that's all that has to be said, quite frankly you haven't taken care of this. People came and spoke to you, and I don't know who you were listening to at the time. These people clearly aren't lying. They live this life and they took the time to come and speak to you about it and you have not made sure that's reflected in this bill.

Mr Carroll: Point of order, Madam Chair: It's past 1 o'clock. Are we going to break for lunch?

The Chair: We can break for lunch. I'm just going to let Ms Boyd make a final comment. I'd like to dispose of this amendment if we could.

Mr Carroll: Yes, so would I.

The Chair: I'd rather not have to come back to it.

Mrs Boyd: Don't get so touchy. This is part of the democratic process here. You're just showing your true colours, Mr Carroll.

Mr Carroll: I'm hungry.

Mrs Boyd: Mr Kirk, I understood you to say that there was no choice on the part of someone who was a spouse about whether or not they would be party to an appeal. Is that correct?

Mr Kirk: If they were given notice of the overpayment, that's correct.

Mrs Boyd: How do you determine that someone is given notice? Does the individual have to sign that they have received notice, or could in this case, an abusive situation where the woman is not in the home, has not benefited, but the spouse declares that she has been there and she has benefited, is there any consent mechanism for the person to be a party to the action or is this just going to

be automatic? It has nothing to do with the circumstances; if you're in a spousal relationship and this all happens, you automatically become a party to an appeal?

Mr Kirk: You become a party to the appeal if you have been given notice under 16(4), yes.

Mrs Boyd: Personally given notice or are we carrying this notion of spouses as one person one step further? There has to be a receipted notice by this individual?

Mr Kirk: If we have to go to the spouse, yes, the spouse would have to have been added.

Mrs Pupatello: Would you review how you give that notice?

Mrs Boyd: That's not how we read this.

Mr Kirk: In the same way that we would give any other notice.

Mrs Boyd: But it doesn't say that.

Mrs Pupatello: Subsection 16(4) says, "If a recipient had a dependent spouse when an overpayment was incurred, the director may give notice in writing to the spouse respecting the overpayment."

It says "may"; it doesn't say "shall." It also supposes that they know where the spouse is. This is only going to be a problem if the spouse is in a shelter or if there are issues within the family for the spouse. You cannot say that it's all there and it's all okay because of 16(4). Subsection 16(4) does not allay our fear here; in fact it confirms it. The director "may" give notice. They have to find the spouse. How do they give notice? It's in writing. How much time is that? Where do they mail it to? These are the kinds of issues that abused women have faced time and time again.

Now weren't we all surprised when people representing abused women showed up at Bill 142? This is why, and you didn't take time to allay any of their fears in this bill or in the preparation of amendments once it was made clear to you.

The Chair: Any further debate? All in favour of the amendment?

Mrs Pupatello: Recorded vote.

Ayes

Boyd, Pupatello.

Nays

Carroll, DeFaria, Bob Wood.

The Chair: The amendment is defeated. In view of the hour, we will recess until 2 o'clock.

The committee recessed from 1300 to 1401.

The Chair: Ladies and gentlemen, we're back in session. We continue with subsection 23(9).

Mr Peter Kormos (Welland-Thorold): There's a motion that's been tabled, identified as number 88.

The Chair: That's correct.

Mr Kormos: I ask that that be withdrawn. The bill currently refers to "parties." Unfortunately it carries on to

say "as prescribed" or disclosure in a manner as prescribed.

The Chair: Very well. It's withdrawn.

Mr Kormos: But you'll have to withdraw what is identified as motion 88.

The Chair: Terrific. I appreciate that. Subsection 23(10) then; that's page 89.

Mr Kormos: I move that subsection 23(10) of schedule B to the bill be struck out.

Once again, you've got an incredible burden on the appellant. I suggest, with respect, that if subsection 23(10) were to be deleted, common law rules of natural justice would prevail and there would be fairness to persons appealing decisions.

The Chair: Any further comment? Very well. All in favour of the amendment? Opposed? The amendment is defeated.

Next is a Liberal amendment which is identical to the one we've just defeated so it's out of order.

Shall section 23 carry? All in favour? Opposed? The section carries.

Section 24: Any comments? Shall section 24 carry? All in favour? Opposed? Section 24 carries.

Section 25.

Mr Kormos: I move that subsection 25(1) of schedule B to the bill be amended by striking out "will suffer" in the fourth line and substituting "may suffer."

Once again, "will suffer" puts an incredible burden on an appellant as compared to "may suffer," which I suggest to you is more akin to the balance of probabilities or the likelihood of suffering. It talks about the tribunal being satisfied and "will suffer" puts a really high threshold there. "May suffer" gives the appellant the benefit of the doubt during that period of time.

The government has, however, talked about expediting the processes, so we're not talking about protracted periods of time. I hope that the fairness — and I'm not suggesting that the language when it was first written was intended to be as onerous as it turns out to be. I quite frankly suspect that with the inclusion of the words "will suffer" in fact what was being contemplated was "may suffer"; in other words, is there a likelihood that there's going to be suffering if there isn't a continuation of assistance on an interim basis?

Mr Carroll: Just a quick comment on this: We dealt with this under page 30 in the Ontario Works Act and it is the government's intention that the tribunal must be satisfied that true financial hardship does exist and therefore it is our intention to leave the word "will" in there and "may" is unacceptable.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 25 carry? All in favour? Opposed? The section carries.

Section 26.

Mr Kormos: I move that section 26 of schedule B to the bill be amended by adding the following subsection:

"Reasons

"(1.1) The tribunal shall give reasons for its decision."

This is consistent with the amendment that was made to schedule A, the corresponding piece of legislation. I appreciate the support for that amendment, but I believe there should be consistency between the two parts, schedule A and schedule B.

Mr Carroll: I agree with Mr Kormos.

The Chair: All in favour of the amendment? Opposed? Seeing none, the amendment is carried.

I believe the next is identical, is it not, Ms Pupatello? So it's out of order.

Shall section 26, as amended, carry? All in favour? Opposed? The section is carried.

Section 27.

Mr Kormos: I move that section 27 of schedule B to the bill be struck out and the following substituted:

"Recovery of interim assistance

"27. Where the tribunal dismisses an appeal it may order that any interim assistance paid in excess of that to which the appellant would have been entitled under the tribunal's order be repaid and the amount of that excess shall be deemed to be an overpayment."

I appreciate that this deals with interim assistance rather than with overpayments in the regular course of things, and the parliamentary assistant knows there was a great discussion and concern. Again, this is a matter of fairness for people who are appellants. At the end of the day they're the little people and they're fighting the state, they're fighting the government and its agencies.

Mr Carroll: A quick comment on that: The tribunal has the right to deny, grant, grant the appeal in part or refer the matter back to the director. They do not have the right to dismiss an appeal; therefore, this amendment is inappropriate.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 27 carry? All those in favour? Opposed? The section carries.

Section 28: Pages 93 and 93A are out of order. They're not motions.

Mr Kormos: One moment, though, Chair. We're on section 28?

The Chair: Yes.

Mr Kormos: Discussion, please, on that section. We will be voting against the section. I appreciate that was filed as a motion when it's as much a tickler or a reminder as to where we're going to be on this.

The Chair: We've had a number of them throughout this bill.

1410

Mr Kormos: I know, Chair.

We heard a lot during the course of public hearings about this. This is a very frightening, a very draconian bit of law, "frivolous or vexatious." I understand and the parliamentary assistant may well say that's language that's used in other pieces of legislation and it's language which has had judicial interpretation. He may well suggest that's the case and the intent for the language here. But the government's going to be dealing with people in very sensitive, very unique situations, people who have very

modest power, if any, compared to the power of the government and its tribunal. I'm concerned, and the parliamentary assistant may want to explain what remedies and how effective the remedies are for a person whose appeal is deemed or determined to be frivolous or vexatious.

Mr Carroll: Mr Kormos, you are a lawyer, so you probably know the answer to that question better than I. "Frivolous and vexatious" is open, I guess, to interpretation and each case would be judged based on its own merits. I don't have any better answer than that.

Mr Kormos: I understand that. I anticipated Mr Carroll relying upon that being traditional terminology. However, I'm anxious to understand what rights or remedies a person has whose appeal has been deemed or determined to be frivolous and vexatious, but who says no way — that may be in the interpretation that the tribunal gives it, but how does that person go — you and I both know what "frivolous or vexatious" can be, and I appreciate that there has to be or could well be some rationale for control on it. But I'm concerned about the lack of remedies for a person whose appeal is determined to be frivolous and vexatious, but who is being inappropriately determined that way. I would even defer voting on this, quite frankly, or ask that it be deferred until later during the day if we could get some response to that. I think it's a very legitimate query, if we could get some response to that.

Mr Carroll: Can we share something with Mr Kormos that would help him to deal with this? I can't say any more than what I've said, so maybe the staff could give us something.

Ms Fraser: If it's of assistance to the committee, there is of course the right of appeal to the court under section 31: A party to the proceeding "before the tribunal may appeal the tribunal's decision to the Divisional Court on a question of law." On the question of law with respect to that determination there is a right of appeal.

Mr Kormos: Can the parliamentary assistant confirm for us that, as has been indicated by the ministry staff, section 31 is designed to provide an appeal to a determination under section 28, as well as other tribunal decisions? Can the PA confirm that 31 is intended to permit appeals from a determination under 28 as has been described by ministry staff?

Mr Carroll: I'd ask the staff to confirm that.

Ms Fraser: The section reads, "may appeal the tribunal's decision." In my opinion, certainly a decision that the tribunal refused to hear an appeal is a decision.

Mr Kormos: I don't want to prolong this. Is the parliamentary assistant, on behalf of the minister, in accord with that interpretation?

Mr Carroll: I'm comfortable with that interpretation given by the staff.

Mr Kormos: Can we agree that is the — well, okay. I understand the position the PA's in.

Mr Carroll: I'm not quite sure what you're asking in that last question.

Mr Kormos: I'm asking obviously for a very firm and clear comment or undertaking, if you will, on your part, on behalf of the minister, as to the intent of 31 being to provide appeals as well from section 28, determinations under 28.

Mr Carroll: So your question is, if the tribunal rules that an appeal is frivolous or vexatious and therefore they won't hear it, is that decision appealable under section 31? Is that what your question is?

Mr Kormos: Yes, sir, very specifically.

Mr Carroll: Can we give a yes or no answer to that?

Ms Fraser: If the appeal is with respect to a question of law, as required by section 31, then yes, we can, in my opinion. A decision by the tribunal not to hear a matter because it is frivolous or vexatious is indeed a decision.

Mr Kormos: Thank you, Chair. To carry this on would be simply to waste time obviously. Can we have a recorded vote, please?

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Pupatello.

The Chair: The section carries.
Section 29.

Mr Carroll: I move that section 29 of schedule B to the bill be amended by adding the following subsection:

"Jurisdiction of tribunal

"(3) The tribunal shall not make a decision in an appeal under this act that the director would not have authority to make."

This is consistent with a provision found in section 67 of Ontario Works, which states that the Social Benefits Tribunal "shall not make a decision...that the administrator would not have authority to make."

Mr Kormos: It seems to me that this is also consistent with the government's intention to prohibit its own governmental judicial body from establishing, let's say, case law or making determinations that go beyond the ministerial interpretations that will be forced on it. My suspicion is that's the purpose or that's the motive behind this amendment. I understand why the government's making it, but in that context I can't support it because there is some distinct, direct ministerial control over a director. It would seem to me that a judicial body or a quasi-judicial body, a supervisory body which has, yes, an appellate function from the director shouldn't be hampered in this way. I'll be voting against this amendment.

Mrs Pupatello: I just wanted to have a little bit of further clarification. Is it the intention then to restrict individuals who would ordinarily try to make an appeal to not be able to make an appeal based on the fact that the director would have already concluded that it wasn't appealable? Perhaps the staff can answer that.

Mr Carroll: Perhaps you could just elaborate on the question a little more. I'm not really sure what you're asking me.

Mrs Pupatello: The final line says that "the director would not have the authority to make." We're assuming that the director has the authority to make a decision which then is not appealable. You've just clarified that through this amendment. If you could just give me the justification for making it at all.

Mr Carroll: As I understand the amendment, the tribunal cannot make a decision in an appeal that the director would not have had the right to make.

Mrs Pupatello: Right. So I'm just looking for clarification, if I could have an example of what this added clause would mean in an instance. Can you give me some sense? Work me through an example here where you've needed to clarify this by adding the clause.

Mr Carroll: I don't know whether Allan can give any kind of example, but the director has a variety of areas where he can make decisions. The tribunal cannot make decisions in any areas outside of that. If the director cannot make the decision, neither can the tribunal make the decision.

Mrs Pupatello: Which says that the things that are sent to tribunal are going to be purely process issues, not judgemental ones? Because when it goes to the tribunal, the tribunal literally then is simply reviewing the decision-making of the director, not making additional judgements on the same issues.

Mr Carroll: Allan, can you add anything to this?

Mr Kirk: The tribunal can determine if the decision that the director made was correct. They cannot make a decision that a director couldn't have made within the act or the regulations, so they can't make a decision that someone is eligible if they're clearly ineligible based on the act and the regulations.

1420

Mrs Pupatello: So, for example, if the employment supports were denied, the tribunal could reinstate and have the employment supports allowed. Would that be correct? Because the director could have made that determination.

Interjection.

Mrs Pupatello: Okay, bad example. Skip it. I'll have to come back to it and give you a better example. I'm voting against it in any event.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment carries.

Shall section 29, as amended, carry? All in favour? Opposed? The section carries.

Section 30.

Mrs Pupatello: I move that section 30 of schedule B to the bill be amended by inserting after "act" in the third line "without reasonable cause."

If we look at section 30, it's clear that because section 30 deals with no further appeals being allowed, it's reasonable to insert a clause that says "without reasonable cause." It has everything to do with the time periods being allowed. There may well be incidences, in particular with this client group that we're speaking of, where there can

be very justifiable reasons why an individual has not met the condition to launch an appeal at an appropriate time.

Unless the parliamentary assistant can suggest some reason the director wouldn't consider reasonable cause in an appeal to the tribunal, maybe they could suggest that. Otherwise, I think it's perfectly reasonable to add "without reasonable cause," because it's still up to the discretion of someone other than the recipient to determine what "reasonable cause" may be.

Mr Carroll: A quick comment on that, Madam Chair: In subsection 23(2), "The tribunal may extend the time for appealing a decision if it is satisfied that there are apparent grounds for an appeal and that there are reasonable grounds for applying for the extension."

Mrs Pupatello: I then would ask the parliamentary assistant if there's some reason why you wouldn't put it in.

Mr Carroll: It's already covered under subsection 23(2).

Mr Kormos: Mrs Pupatello's concerns are of interest. The staff were helpful in pointing out subsection 23(2), which Mr Carroll just referred to. But then the question is, why do we need section 30? If it's clearly in section 23, the time frame contemplated provided by regulation obviously, "prescribed period," and then in subsection (2) an opportunity to extend time, I wonder why we need section 30.

It seems to me that you're inviting debate about which prevails, whether section 30 prevails. A judge at some point is going to say, "Wait a minute. I appreciate there's 23(2). Does that mean that before the time expires" — because that's the argument I can anticipate. Some clever government lawyer is going to appear before Judge MacPherson or some other judge over at the Supreme Court and argue that section 23 is all-inclusive; that's it, that's the package there. But they're also going to say, when you look at 30, that 23(2) merely permits you to apply for time to extend the appeal before the appeal time is expired.

In other words, let's assume there's a 30-day period to serve notice of appeal. I'm on day 29; I don't have my material together; I'm still waiting to see the legal assistant at the Niagara South Legal Services. I can file to get some sort of interim relief, a speedy way of extending time to file a notice of appeal. But then the counter-argument is that section 30 would make it quite clear that you can't seek leave to extend time for appeal once the appeal period is exhausted. Do you understand what I'm saying, that it would restrict the impact of the effect of 23(2)?

It seems to me Ms Pupatello raises an interesting point. You don't need 30 if 23(2) is meant to be extending time to appeal both prior to the termination of the time as well as afterwards. In other words, the 30 days have lapsed, I'm on day 40, 10 days after. Subsection 23(2) would seem to permit that, but section 30 would seem to prohibit it, thereby restricting subsection 23(2) to an application for extension of time only if you file that application and obtain your extension of time before the time frame is up.

That's assuming 30 days. That's not an unusual time frame, though I'm not suggesting that's what it should be. I hope the PA understands my dilemma.

Mr Carroll: I do understand it and I'd like to comment on it from a non-legalistic standpoint. My interpretation of subsection 23(2) is the tribunal may extend the time for appealing a decision. That's fairly straightforward. They have the option to extend the time. Section 30 says that if the appeal is not filed during the time set out, there's no further recourse. So whether it's the original time or an extended time, as allowed under 23(2), if the appeal is not filed during the time allotted, there's no further appeal. That's how I would understand it. If I'm wrong, then I would ask for clarification on that. Is that the proper interpretation?

Ms Fraser: Yes, it is.

Mr Kormos: Once again, I'm glad to have the PA indicate that it wasn't designed to restrict applications for relief only to the period of time within the time necessary for filing the appeal. Everybody's shaking their head, but is that how the parliamentary assistant, on behalf of the minister, explained section 30?

Mr Carroll: Section 30, as I understand it, is fairly straightforward. If the director's decision is not appealed within the time required under this act — and part of this act says that there can be an extension applied for — no further appeal lies. To me, that's very straightforward.

Mr Kormos: I'm glad we've got that on the record. I still have my concerns about 30.

Mr Preston: Your statement that if you have 30 days and you come on day 40, the appeal is over, you're right. Your example was if the time is up on the 30th day and you come back on the 40th day for appeal, you're out of luck, unless that was extended during the appeal time.

Mr Kormos: Here we are. That's exactly my point. Mr Preston understands my argument.

Mr Preston: As I understand what you've said, your argument and statement was that if an extension is asked for because of the mail, because of various reasons, and you get that extension, that is the time within which you have to give your appeal. Am I correct?

Mr Kormos: That's my understanding.

Mr Preston: Right. And if you go beyond that day, your appeal is down the tube.

Mrs Pupatello: I appreciate the government MPP making the case that indeed you have to make the request for the extension during the initial time period.

Mr Preston: That's when you know you're going to run out.

Mrs Pupatello: So you're also assuming that during that time period you're in a position to request the extension. I would suggest that in most cases, if you're aware of the appeal happening, if you're aware of the process, you won't need the extension. Usually you need the extension because you haven't been made aware in time. That's exactly the point, that for any number of reasons, more reasons for this particular client group than others, they're likely to be in a position where they may not know in time and need the extra time, given that with

this amendment you would have the director still determining if it's reasonable cause, like a lengthy hospital stay, whatever.

Those kinds of things are more likely with this group than with another group, and if you put it also in section 30, you're not requesting the length during the initial 30-day period, you're able to ask for an extension under what the director decides is reasonable cause, like an operation, hospital stay, whatever — that's the whole point and that's why it should also be set out in section 30, because if you don't happen to get it, for reasons that are more likely in this client group than in other client groups, that seem to be reasonable.

Please remember that the director is still the one to determine if it's a reasonable cause. If it was a vacation in the south of France, that probably isn't reasonable cause, but an operation, being on particular medication, for whatever purpose a director would say is reasonable cause, I don't think that's requesting a lot. If it means one more line somewhere that some may view as duplicate somehow but may actually be helpful to individuals, I just don't see what the big deal is to err on the side of caution.

1430

Mr Kormos: I'm sorry we're spending so much time on this, but I really think it is important. I appreciate what Mr Preston is saying; I understand what he's saying. He's demonstrating or arguing exactly the point that I have concern about. Clearly, extension for leave to appeal under 23(2) — without section 30, 23(2) would clearly permit you to apply for leave to extend time either within the original appeal time or afterwards.

I know there are other people who have had a lot more experience with this type of legal stuff than I have, but clearly when a tribunal extends time for leave to appeal, it says, "Okay, you have until X date to do it." Mr Preston alludes to that type of reference. That's inclusive, that's inherent in 23(2), Mr Carroll; it's there already. That makes section 30, if your interpretation is to be argued, redundant, and with Mr Preston's interpretation it makes it crucial in terms of its impact.

If your position is the one that we really want to give effect to — and quite frankly, your position would be great, if that were how it were being interpreted at the end of the day — you don't need section 30, because any extension for a leave to appeal is not going to be open-ended. The tribunal is going to acknowledge that you're either within the appeal time frame but you need an extra 10 days to file your notice or whatever paperwork, or it's going to say: "You've gone beyond it, but you've established reasonable grounds for an extension. Although the period expired last week, we'll extend it to June 30." But clearly, once that happens you've got until June 30 and there's nothing more to be said or done. I tell you sincerely, that's my modest understanding of how these things work in other arenas.

I think you're hearing a strong argument from a number of members of this committee against section 30. I think it's going to be very difficult for you to justify section 30 in terms of what 23(1) and 23(2) already do.

Mr Carroll: Just to clarify, my impression of this whole section is that if an appeal is not made or a request for an extension is not made within the original time, then neither option exists after that. That's my understanding.

Mr Kormos: I'm glad you've said that. Legal counsel indicates that wasn't the intent.

Mr Carroll: I'll ask that she clarify that.

Ms Fraser: Yes, I will attempt to clarify it. What subsection 23(2) says is the tribunal may extend the time for appealing decisions if it is satisfied and so forth. It does not say, "The tribunal may extend the time for appealing a decision before that time expires, if it is satisfied." It does not say that, intentionally. The point is to permit the tribunal to extend the time, where it is satisfied of those factors, either before or after the expiration of the time. That is the intent.

Mr Carroll: That addresses Mr Kormos's concern.

Ms Fraser: I believe it does.

Mr Carroll: Mr Kormos, does that address your concern?

Mr Kormos: I understand what legal counsel says the purpose of those sections is from her point of view. I'm concerned that there could be people down the road who are inclined to take your view. I'll be voting against section 30 for that reason. I think it's a very dangerous section.

The Chair: Further discussion? All in favour of the amendment?

Mr Kormos: Recorded vote.

Mr Carroll: What exactly are we voting on?

The Chair: We are voting on the amendment that appears on 94A to section 30.

Ayes

Kormos, Papatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.
Shall section 30 carry?

Mr Kormos: Recorded vote.

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Papatello.

The Chair: The section carries.
Section 31.

Mr Kormos: I move that subsection 31(1) of schedule B to the bill be amended by striking out "of law" at the end and substituting "that is not a question of fact alone."

What that does is basically use the parallel language, a matter of law or fact and law. Quite frankly, as I understand it, that's the standard in the current legislation. It also is a historical and traditional standard for right of appeal to administrative tribunals and in the course of appeals in the courts under administrative law.

The question of law obviously prevents — and we're not restricting it to law or fact, "that is not a question of fact alone," but it incorporates the opportunity for an appellant for whom the facts have been, let's say, misinterpreted, who's in a situation of fact and law there, to pursue that. That is a historical standard, as I understand it — I'm subject to correction — for appeals of an administrative nature. I ask the PA to seriously consider that.

We're not suggesting questions of fact alone. Clearly, the amendment would say "that is not a question of fact alone," which means a question of law or fact and law.

Mr Carroll: This amendment was passed under Ontario Works prior. Our intention is that it is based on law, that it is a question of law, and in our opinion the information provided in B is consistent with a number of Ontario statutes.

The Chair: Further discussion? Very well. All in favour of the amendment?

Mr Kormos: Recorded vote.

Ayes

Kormos, Papatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.

Mrs Papatello: I move that subsection 31(1) of schedule B to the bill be amended by — oh, it's the same; I'll withdraw.

The Chair: Help me with this. One says "that is not a question of fact alone"; the other one says "that is not a question of law alone."

Mrs Papatello: They have the same effect.

The Chair: It's different wording.

Mrs Papatello: I move that subsection 31(1) of schedule B to the bill be amended by striking out "of law" at the end and substituting "that is not a question of law alone."

I think we've had some discussion on this item already. I'm not envisioning the government changing its mind; however, I would like to say that often if you leave in the words "of law," you're talking about procedural legal wording. The whole intent of this amendment is that it is not simply based on that, that it is not just a question of law in the issue of appeal.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 31 carry?

Mr Kormos: One moment, if I may. I believe it would be appropriate, in view of what the next amendment is, identified as number 96, which creates 31.1 — or is that regarded as a new section?

The Chair: It's a separate section, Mr Kormos. We will deal with it as such.

Shall section 31 carry? All in favour? Opposed? The section carries.

Section 31.1.

Mr Kormos: I move that part II of schedule B to the bill be amended by adding the following section:

"Rights advisor

"31.1 An applicant or recipient has the right to be accompanied by counsel or any other third party in an appeal to the tribunal or to the court."

You take a look at subsection 31(4), where there's a right to counsel, and it could well be argued that the applicant has a similar inherent right to counsel. However, the issue is any other third party. Chair, you know that most of this type of work in Ontario in the area of, let's say, poverty law is done by advocates working out of constituency offices, or legal clinics, or trade unions, or various community groups, organizations of the ilk. The majority of the people doing that advocacy work are very, very skilled in the type of work they do. In fact, many of them surpass lawyers because theirs is a specialized area and they're extremely experienced in it. You heard a lot of evidence from these types of people. Some are lawyers, many are not. Many are paralegals, advocates, what have you.

1440

Again, we're dealing here with poor people. You're not under schedule A or schedule B if you're prosperous. We're also dealing here, and I don't want to debate the issue now, with a point in time when the legal aid system is not funding certificates in the instance of retaining legal counsel to do this type of work.

We're also talking about up north, especially in terms of the isolated areas. You heard again from some of these same advocates who are far more accessible to a potential applicant than would be a lawyer, never mind the issue of cost and so on.

Clearly the court has the power to control its own process, so we don't have to be worried. One of the issues or concerns regarding non-lawyers, so to speak — again, I really don't have any special affection for lawyers as compared to other advocates. As I say, in specialized areas like welfare law, lay advocates, non-lawyer advocates have proven themselves to be as capable as, if not more capable than, because of the speciality, members of the bar.

I would urge the PA to accept this amendment. At the end of the day it's going to make the whole process happen a lot easier and a lot smoother and a lot more promptly.

Among other things, here we are in schedule B and we're dealing with persons who have disabilities. Those disabilities range from Z to A or A to Z. The presence of an advocate, either counsel or other third party, and that's

a broad range, is going to make things happen a lot more quickly, a lot more efficiently. I'm not sure there's an implied right to counsel by virtue of the ministry being able to be heard by counsel, and there may well be, but why don't we say so? Why don't we in terms of counsel, but also any other third party? We're dealing in schedule B with persons with disabilities. These are people for whom sometimes, perhaps many times, it's going to be very difficult to do their own advocacy if they don't have a lawyer. I plead with the PA to accept this amendment.

Mr Carroll: I understand Mr Kormos's concern here and I'm sure he knows better than I do, that being his professional calling, that the Statutory Powers Procedure Act already gives the right to a person who is to be at a hearing to have the right to counsel. That already exists and for that reason we believe there's no necessity to include it in this particular act.

Mr Kormos: I already suggested that there is an inherent right to have counsel, so that means there's no quarrel with the part about saying that here in this bill. If it's there it's of no harm or in no way contrary to anybody's interest, political or otherwise, to include it.

Let's get down to the issue of third parties, though. I want to repeat what I said about the role of lay advocates, highly trained in their own right, but not members of the bar, not regarded as counsel. That's the crucial part here. That's the real gist of the amendment. I would be interested in hearing what the PA has to say about counsel. I already suggested there could well be an inherent right. What does he say about laypeople, about lay advocates and how important they can be in the process, especially with what's becoming a more restrictive access to lawyers because of issues with legal aid and geographic accessibility?

Mr Carroll: Maybe Mr Kormos can help me a little bit. Does the Statutory Powers Procedure Act — he refers to "counsel" — prohibit that counsel being a layperson?

Mr Kormos: I don't want to be presumptuous, but I would ask that the PA request that of the ministry staff, because I believe there are some problems in that regard. We're talking here about an appeal to the court. That's where you run into problems currently with laypeople appearing in court. I'd just like to clear this up. Does it preclude?

Ms Fraser: The Statutory Powers Procedure Act refers to "counsel," which means someone called to the bar of Ontario, which means a lawyer. However, the rules of the law society also permit representation by non-lawyers in certain circumstances. Those rules would govern in this event as well. I don't have them with me. My recollection of them is that non-lawyers would certainly be entitled to appear before a tribunal. However, they would likely not be entitled to appear before a court. That is true for all matters, not just matters of this nature.

Mr Carroll: Are you satisfied that the Statutory Powers Procedure Act deals with the issue, the concerns that Mr Kormos has in this area?

Ms Fraser: Yes, Mr Carroll, together with the rules of the law society I believe that's the case.

Mr Kormos: That's exactly the point. Laypeople are entitled to act as agents in provincial courts, but as I understand it, not in courts where you have federal appointments. I appreciate what ministry staff have said, but I think it speaks very much to the point that there is unlikely to be access for a lay advocate, notwithstanding that they could be highly trained. This is where I made reference to the court's power. I'd be pleased to hear from ministry counsel here. If there's concern about, let's say, somebody who is just being obstreperous and fouling things up rather than helping them along, the court — as referred to here, the court, capital C — has a far stronger jurisdiction to control its own process. It can say, "Mr So and So — or Ms So and So — you're not helping things along; you're not being useful here." There are all sorts of remedies, I suppose, contempt or any number of other things, or the court's power to appoint counsel.

But it's clear that a lay advocate wouldn't, as of right, have access — this amendment could give effect to that — to the court for the purpose of representing an applicant appealing from a tribunal. I've got to tell you, Chair, it's been a real problem with the constituency work we've done, and my staff, who are very confident and competent and capable, are cut off at the level where you start dealing with court appeals, even though I'm confident that their capacity to represent at the court level is as qualified as any lawyer's. That's exactly the point here. This excludes lay advocates.

We've got a growing and healthy tradition of lay advocates. I'm suggesting that the prohibition against lay advocates in courts — as I say, it would usually be courts with federally appointed judges; obviously in provincial court (criminal division) it depends upon the nature of the charge; lay advocates can appear for indictable offences, as I understand it, only summary conviction — seems to me to be a somewhat archaic rule in the self-interest of lawyers, perhaps. Cynics about the legal profession might suggest that. It seems to me that in this type of law, when we're dealing with what has been historically described as an area of poverty law and recognizing the huge growth in advocacy and highly trained and highly skilled advocates, this government could make a big move in including any other third party in an appeal to a tribunal, it's a given, or to the court.

1450

The Chair: Further discussion? Seeing none, shall the amendment, section 31.1, carry?

Mr Kormos: Recorded vote.

Ayes

Kormos, Papatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.
Section 32, 96A. Mrs Papatello.

Mrs Pupatello: Pardon me?

The Chair: Don't you have a 96A? Could we just hold on a minute, Mrs Pupatello?

Mrs Pupatello: Well, 98A is my next motion.

The Chair: All right. We are missing 96A and 97.

Mrs Pupatello: I have 97 and 98, which are not Liberal motions.

The Chair: So we are missing 96A. Mr Kormos, do you have 96A?

Mr Kormos: No, Chair, I don't. I have 96. My number 96 is the amendment I just moved creating section 31.1.

The Chair: I have two copies of 96A.

Mrs Pupatello: May I see it before you copy it, Tonia? This is the one I have as number 98A.

The Chair: Is it in the wrong order? No, 98A is a different one. Shall we stand this one down and proceed to the next one to save time? Any problem? Terrific. Then we'll move to 97.

Mr Kormos: I move that section 32 of schedule B to the bill be struck out and the following substituted:

"Provision of employment supports

"32. (1) Employment supports may be provided to a person described in subsection (2) in order to remove barriers to the person's employment and assist the person in attaining his or her employment goal.

"Who receives employment supports

"(2) Employment supports shall be provided to a person if the person is a person with a disability as defined in section 4."

This was again a major issue during the course of hearings. One, there was much concern expressed about the prescribed employment supports and how that list could become very, very narrow at the whim of the Lieutenant Governor in Council, cabinet, behind closed doors. There was also concern about the language "competitive employment." This obviously deletes the word "competitive" twice in subsection (1). Let me speak to that part first.

Competitive employment: I think all of us during the course of the hearings were getting a drift as to what that meant. It's an interesting bit of language to include there. We heard from any number of people in their own right and representing constituencies out there who talked about their fear about competitive employment. What does it say to so many people, for instance, for whom a disability might prohibit a 35- or 40-hour workweek, whose capacity, because of their disability, is for that point in time so restricted that they are not going to be out there, lined up with persons without those same disabilities, able to take on that same job under those same conditions?

The two key terms here are "prescribed" and "competitive employment," because the only time they are going to be considered is if it is to remove barriers to the person's competitive employment. That will reduce the group of persons entitled to consideration for employment supports considerably.

For instance, we heard from deaf people speaking on behalf of, I'm sure, large portions of the deaf community

almost in every place we were in the province. It would be argued by the government, and I'm sure down the road by any service provider of employment supports, that for instance a signer would make that person non-competitive in terms of the labour market. It's very, very dangerous language and I think it is highly exclusionary.

The other consideration, and this is where we get to subsection (2), is the business that "employment supports may," and we were asked why there is no appeal right from employment supports. It became obvious: because it is totally discretionary. How could you appeal something and why would there be a need for appeal for something that's totally discretionary? It seems to me that if the government is serious that the word "shall" is imperative there, then the qualifying section obviously would be section 4, and not a matter of discretion on behalf of a service coordinator, service provider, if you will.

We heard if privatized service providers are utilized — and it's not out of the question, by any stretch, the HMO type of model — how they are going to cherry-pick, how they are going to take the persons with, let's say, the lowest level of disability — and I'm not sure that's appropriate language — and very inexpensively provide them with employment supports. But those are the people for whom it's going to be far easier to provide employment supports. It's going to leave out the people who most need the support from consideration.

The government took great pride in schedule B to this bill. It did. It earned kudos. I'm still cynical about schedule B, but it did; it earned kudos from a lot of Ontarians. Gary Malkowski was one of the first, for instance, on behalf of the Canadian Hearing Society, when the minister made her announcement about the intended structure of this, to praise the government for schedule B. We've seen the submissions of the Canadian Hearing Society, along with others, giving the government due praise when it comes to schedule B. But for the caveats about language like "competitive employment" and the discretionary "may provide," with of course no right to appeal, and a right to appeal would be irrelevant, I put it to you that this amendment responds very directly to some very real concerns expressed by a large number in the provincial community and a large number of members in the communities of persons with disabilities who had some cautious support for schedule B but for this sort of language. Thank you.

Mr Carroll: A couple of comments. Subsection (2) refers to "employment supports...provided to a person if the person is a person with a disability as defined in section 4." Section 4 deals with eligibility for income support, which would then limit the provision of employment supports for persons who were also receiving income supports. We do not believe that is a policy we want to put forward. Second, it is the government's policy intention that employment supports be provided to people who have the ability to move towards competitive employment. That is the policy direction of the government that is not up for compromise. For those reasons we cannot support this amendment.

1500

Mr Kormos: May I respond to Mr Carroll, because subsection (4), which establishes eligibility, quite right, for income supports, is also a broad definition relative to the definitions under subsection (2). I'm suggesting to you that if the bill is interpreted fairly, everybody who would be included in subsection 32(2), paragraphs (a) and (b), would also be dealt with under section 4 if the intent of the bill was really to be given effect. It seems to me that this government would want the broadest possible coverage of employment supports. We're not talking about enabling people to participate in the economy by working at a decent job for fair wages just so they can be at work rather than receiving assistance; I think we're talking about it as a goal of any fair or democratic or just society that people with disabilities have a right to participate in the economic activity — a right.

Look what happened on the issue of access. We're talking the most basic access of ramps and electronic doors and so on. In the course of a mere 10 years, attitudes have changed a great deal, fortunately. The Human Rights Commission and the courts had a great deal to do with it. People had to be pushed; governments had to be pushed. You know what the courts have said about accessibility: Accessibility doesn't mean through the back door. I'm arguing that this amendment would create some modest rights for persons with disabilities, regardless of the type of disability, to participate in the economy. I say no more.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

We go back to 96A. Everyone has a copy of 96A now?

Mrs Pupatello: I move that section 32 of schedule B to the bill be amended,

(a) by striking out "competitive" wherever it occurs; and

(b) by striking out "is eligible for income support under part I" in the second and third lines of subsection (2) and substituting "is a person with a disability as defined in section 4."

We have already touched on some of the issues arising out of the use of the word "competitive." Just by way of explanation, we would very much like to see this clause, particularly that word, removed. For example, there are a number of people in the disabled community who work in environments that would never be considered competitive. I need to ask the parliamentary assistant or the staff if there's some indication, with these examples, that they would be considered competitive environments.

Members of the disabled community who work at a non-profit agency: Would that be considered a competitive environment, specifically those who work at Goodwill Industries, for example? These are organizations that are beholden to the goodwill of the community for their existence. They're not based on an actual financial statement that affects the bottom line of good, competitive position. Would those constitute competitive employment? There are still sheltered workshops in our communities. Employment supports required for those with disabilities

who work in those kinds of workshops: Are those considered competitive environments?

If I could get clarification on that, that'll help me understand and maybe I won't be so fearful of the word "competitive." That can certainly be interpreted to mean that those environments would not apply and would not be considered competitive.

Mr Carroll: I'm not prepared to say whether or not a specific job qualifies as "competitive environment." I will tell you, however — I'll just get it here because it was in the briefing binder that we all had a copy of — what we mean by "competitive employment." I'm sure we had the exact words that we all were furnished with.

Mrs Pupatello: Do you have your copy?

Mr Carroll: I don't have my copy with me.

Mrs Pupatello: Thank you.

Mr Carroll: I just want to make sure of the exact terminology. I know it has to do with the ability to improve oneself. I'm not sure exactly —

The Chair: Ms Pupatello, do you have any other comments while this is being done? Oh, I see they've found it.

Mr Carroll: "Competitive employment" refers to the ability to earn income at a level that helps to increase a person's independence. It could mean traditional waged employment, self-employment or a community-owned business. It includes both full-time and part-time work and would recognize that due to the nature of some disabilities, some people move in and out of the labour force."

Mrs Pupatello: That definition of "competitive," which I also read, still leads me to a question. If there are individuals who work in sheltered workshops, what they receive is a stipend as opposed to a wage. It's not minimum wage by any means. It wouldn't be considered a wage in that true sense where they're able to better their position. Those are the kinds of environments that a majority of people are perhaps going to be in a position to go to. That may be all they can go to. If that's the case, if an individual needed employment supports with all that means, would those people be entitled to them?

The wording was very clear, not only in this section we're discussing now, section 32, but also in subsection 21(3): "No appeal lies to the tribunal with respect to a decision taken under part III of this act." Part III of the act is "employment supports, no appeal." Not only do we have a definition that is not extensive enough to answer my questions, like, would a sheltered workshop apply — that is pretty common out there in the community. I would say most individuals who work there are not in a competitive environment in the normal sense of the word by what you've just read. The majority of the people who work there are individuals with disabilities who would require some kind of employment support in order to continue there.

You've not given me the specific information of whether sheltered workshops apply to that definition. We've got a mention where no appeal is allowed, specifically in the area of employment supports. You can

understand my concern that I see this as another attempt to say, "If the job isn't enough to get you off the system, we're not spending the money on you" even if it's for their betterment as individuals to get them outside and working with the community etc.

It's not going to be enough to warrant a decrease in the kind of income you get on disability or perhaps move you right off the system. We're not prepared to invest money in employment supports. Not only that, when we choose not to invest in the employment supports, you don't have the right to appeal that. We specifically asked you to revoke that subsection and you didn't allow us to do that. You voted that down. We've got some real concerns about where many, many people in this community fit.

The Chair: Further discussion?

Mrs Papatello: I would like to have an answer from the parliamentary assistant, something officially on record.

Mr Carroll: I didn't hear a question.

Mrs Papatello: Does the situation of a sheltered workshop apply, given that the definition of "competitive" doesn't tell us that, you or me. You must have some sense, by regulations or something that's going to be coming, that it covers those kinds of areas where people clearly aren't in a position to better their standing by virtue of some of those workplaces not being at minimum-wage payments, let alone anything to move them off the income support system.

Mr Carroll: As I understand the policy direction, it would not. We're basing the decision on where the person works. We're basing the decision on whether or not the work they're engaged in will help them to move towards more independence. That to me is as understandable as anything Ms Papatello has said. Whether or not that happens in a sheltered workshop, whether that happens in self-employment, regardless of where that happens, it's the person who is evaluated as to whether or not they're participating in competitive employment, not the place where they happen to be working, as I understand it. So the explanation we gave you, which you've had for some time now, could apply to any kind of a workforce, as I understand it.

1510

Mrs Papatello: Your definition of becoming more independent, is that more financially independent or more independent in terms of not relying on family or on the system? I understand the definition of "competitive" as it was provided to us. That's what has led to these questions. It hasn't clarified enough the fact that a lion's share of many people who will be on ODSP clearly qualify as substantially disabled — and, and, and, or, or, or. However you've changed it now, the point is still the same. Would a situation like that preclude them from getting employment supports because it doesn't make them more independent financially but it does make them more independent in terms of their participation in the community? If the answer is that yes, it's financial, then my fear is for those who are being brought into communities by virtue of other non-profit agencies whose job it is to get these people things to do — we've got

several of them in my community — but they don't make any kind of living that would get them off the system eventually.

Moreover, you're not allowing for any appeals when those kinds of decisions are made. I need to hear whether a place like Goodwill Industries that might utilize individuals with disabilities who may not make a full wage, who might just be making a stipend — can we get that kind of clarification before we vote on the amendment within the next hour or so, so we don't run the clock, before we pass this and know exactly what we're going to defeat or pass?

Mr Carroll: I'm not in a position to tell you that any specific job in any specific place for any specific person qualifies as competitive employment.

Mrs Papatello: Okay, can I ask the assistant, if you'd go back then. Given the information that we can't get or that you don't have now, could you explain the rationale for having this section unappealable?

Mr Carroll: The employment support system, as I understand, has its own appeal process.

Mrs Papatello: Actually, subsection (3) of 21 says, "No appeal lies to the tribunal with respect to a decision taken under part III of this act."

Mr Carroll: It is a standalone process, the appeal process to employment supports. It is not appealable to the tribunal.

Mr Kormos: My goodness, this came up again. Ms Papatello is dead on and I'm grateful, because if she had moved her motion first and it hadn't been successful, mine would have been out of order. Whatever concerns the government might have had about my amendment, clearly Ms Papatello's is a little broader in scope.

Let's take a look at the appeal that the parliamentary assistant is talking about in subsection 36(2). It's a self-contained process, you bet your boots it is, because it's like appealing to the trial judge who convicted you instead of a separate tribunal: "A service coordinator shall not determine that a person is ineligible...without first giving the person notice..." I hope he's speaking about something more than 36(2), because that's not an appeal by anybody's stretch of the imagination.

That's exactly what Ms Papatello is talking about. I hope, since he brought up this business of appeal being there, that in addition to the other comments Ms Papatello made by way of query, the PA would respond to that.

The Chair: Is your question to the parliamentary assistant, Mr Kormos? I didn't hear a question.

Mr Kormos: Yes, Chair, please.

Mr Carroll: Madam Chair, we've now moved up into a discussion of section 36. I would suggest that since we're dealing with section 32, possibly we should keep our comments to section 32.

Mrs Papatello: I need to ask again if the parliamentary assistant is in a position to check with anyone in the next hour or so within the ministry to confirm that these kinds of examples do indeed fit the definition of "competitive" as laid out in the binder. People aren't going to have those kinds of concerns if you tell us: "It's

pretty inclusive. It includes the kind of employment placements that are currently out there in the field." If you said that, if you at minimum were prepared to go out on a limb and say, "These kinds of activities that disabled individuals are currently engaging in constitute a move towards independence" — whether that means four hours away from family members, that constitutes independence, would it? If the answer is yes, then people aren't going to be concerned that all those people who are never going to be in a position to be "competitive," to become more independent, and that that means financial — that we're assured individuals like that are going to get employment supports.

Again my fear is that you've specifically outlined an area that is not appealable. I don't consider an internal review an appeal process, so I don't think the next section is applicable in any event. You've specifically outlined a special subsection that no appeals can be taken with regard to employment supports. That was very strange at the time, and the reason for that is, unless you have an intention of denying that, we know that coming up in the same area, in the same schedule B, will be an application for a director to consider going to the same individual and asking him to pay for employment supports.

When you get into the detail here — and they say the devil is in the detail — this is a hell of a beast. Time and time again throughout this section — you waved the banner all over the bloody province about what a fabulous job you were doing for the disabled. When you get into the heart of the matter, you've got employment supports that may or may not be granted. When a decision is made it's not appealable. Maybe they're going to pay for them, and depending on what kind of work it is, they may not get them at all. That's the detail that is currently in this clause.

If what I'm telling you isn't true, you should be prepared for the sake of your own government's reputation in the disabled community to say, "Those kinds of employment placements today, even if they don't move them off the income system, are going to be supported with employment supports," if that was your intent, because that's what the people believe you to be doing. If you don't confirm that today, as we're going through this clause-by-clause, all I can suggest is that everything you've said before was a sham, it was all a lie, you're doing it and you're finding ways to take stuff away instead of giving stuff. If that's not true, then just confirm that it's not your intention to deny people employment supports based on being placed where they may not be moved off the system and into financial independence.

That's a question for the parliamentary assistant.

Mr Carroll: Madam Chair, I have nothing further to add to the discussion.

The Chair: Very well. Any further discussion? All in favour of the amendment? Just to remind you, we're dealing with 96A.

Mrs Pupatello: A recorded vote.

Ayes

Kormos, Pupatello.

Nays

Carroll, DeFaria, Bob Wood.

The Chair: The amendment is defeated.

Mr Carroll: I move that clause 32(2)(a) of schedule B to the bill be amended by striking out "physical, psychiatric, developmental or learning impairment" in the first and second lines and substituting "physical or mental impairment."

This amendment makes the definition of "disability" for the purposes of employment support consistent with the definition of "disability" for income support by including "mental impairment." "Mental impairment" covers psychiatric, developmental or learning impairments.

Mr Kormos: I was fascinated when I first read this amendment, because on the contrary, it would seem to delete learning impairment, delete developmental impairment and delete psychiatric impairment. I'm going to prevail upon Mr Carroll, and if I'm wrong please say so. Let's take the example of, let's say, an obsessive-compulsive personality disorder. The APA diagnostic manual clearly identifies obsessive-compulsive disorder as a psychiatric disorder. There will be those who will argue that it is not a mental impairment, that the two are entirely different animals, notwithstanding that an obsessive-compulsive personality disorder — and we heard from people who were either family of or advocates for or survivors of psychiatric illness.

1520

I'm not suggesting Mr Carroll's doing anything underhanded here, but I'm concerned that he's just plain flat wrong when he says that "mental impairment" would include all psychiatric disorders that lead to impairment rather than exclude them. In fact, it seems to me that mental impairment would imply an impairment of cognitive functioning, which is far different from, let's say, a psychiatric illness like obsessive-compulsive personality disorder, like perhaps some cases of bipolar manic-depressive diseases, where there isn't a mental impairment. People suffering these psychiatric illnesses can retain all of their faculties in terms of their cognitive skills and their mental functioning, yet they still suffer a psychiatric illness. I am very concerned.

Again, developmental or learning impairment: I don't pretend to have any great expertise in this, any more so than laypeople would have, but dyslexia is a mental impairment as compared to a learning impairment? I would suggest that people with dyslexia are quite capable and oftentimes are extremely bright, extremely capable, but rather than suffering from a mental impairment they suffer from a learning disability more significantly consistent with learning impairment.

I really question the wisdom of this amendment. I think it's very, very dangerous. Mr Carroll suggests that "physical" — physical, fine, but then he replaces

"psychiatric, developmental or learning impairment" with "mental impairment."

I would like to ask him, is he suggesting that "mental impairment" is a more inclusive definition or a more exclusive definition? That is to say, is it his intention that "mental impairment" go beyond even merely "psychiatric, developmental or learning," since that's what he's replacing with "mental impairment" here?

Mr Carroll: As I understand from the hearings, this issue did come up. There was concern among that particular community that under the definition of "disability for income support" we would use "the person has a substantial physical or mental impairment," and that we would change the terminology when it came to employment supports. My understanding is that the terminology "mental impairment" is more inclusive than enunciating the three separate areas. For that reason we've responded to a request to be more consistent in how we're explaining this than we were under the original act.

Mr Kormos: I thank you for that, Mr Carroll. Can I put a very direct question? Is it therefore the intention of the government, by replacing "psychiatric, developmental or learning impairment" with the words "mental impairment," to include not only those three previous things but even more?

Mr Carroll: I don't know whether I can be that specific on that particular issue because I'm not that familiar with the "even more," but my understanding is that it is much more inclusive terminology than specifically stating those three, that it opens up for more types of mental impairment to be included than being specific with the three.

Mr Kormos: I obviously have no quarrel with that, sir. Let's make it clear what I'm trying to do, and that's why for you merely to say "I understand" — you're the PA, and obviously I'm trying very hard on some of these issues to make a record as to the intent of the government so that should, down the road, some legal interpretation be advocated or advanced that's inconsistent with the intent of the government, there's a record here — not that it's conclusive in its own right but that there's a record here. I'm not trying to play dirty pool. I'm just asking you if you would be prepared to say that the intention of "mental impairment" is to include psychiatric, developmental or learning impairment.

Mr Carroll: The intention of "mental impairment" — and I'll stand to be corrected if I'm not right — is to be more inclusive than to specifically mention "psychiatric, developmental or learning impairment."

Mr Kormos: Thank you. I appreciate that.

Mr Carroll: The counsel from the ministry agrees that's the intention of changing the wording.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment carries.

Shall section 32, as amended, carry? All in favour? Opposed? The section carries.

Section 33:

Mrs Papatello: I move that section 33 of schedule B to the bill be amended,

(a) by adding "and" at the end of clause (a);

(b) by striking out "competitive" in the second line of clause (b); and

(c) by striking out clauses (c) and (d).

If I may just direct you to what those are: In particular, striking out clauses (c) and (d) would be our request to amend by deletion clause (c), which says "member of a class of persons prescribed to be ineligible for employment supports." We don't know who those people are. We have no idea what's going to be prescribed in terms of the class.

Second, (d) "the person enters into a funding agreement with a service coordinator based on a competitive employment plan." Once again we don't have enough information to allow a clause like that to stand without, at minimum, having seen the regulations in advance in terms of what that could potentially mean. For example, can that be interpreted to mean the funding agreement is that the service coordinator is going to place an individual with disabilities into competitive employment and then be able to garnish a portion of wages as payment? Is it going to be a head tax that's charged by anyone who gets placed? These are the kinds of questions that strike me immediately when I see that the person is to enter into a funding agreement, and unless they're prepared to do it, they will not be able to be eligible for employment supports.

You see, you've got them coming and going with this section. If they don't agree to what you're setting out, they don't get the employment supports, so their back is against the wall. Either they sign on the dotted line or that's it, they're not getting employment supports.

If the government meant to come forward with this bill because it was a gravy train for the disabled community in Ontario, it just is not showing up here in clause-by-clause. We have yet another section where we don't know what "enters into a funding agreement" means. I suggest it be withdrawn. Subsection (c), yet another, "member of a class of persons prescribed." We have no idea of what that means and we have a great deal of difficulty with both of those.

Going to (a) and (b) of the amendment I'm proposing, that we add the word "and" at the end of subsection (a) and strike out "competitive" for all of the reasons that we gave earlier, we do not know what "competitive" means, nor has any description given so far been substantial enough for us to have any comfort with this area.

The Chair: Further discussion? All in favour of the amendment?

Mr Kormos: Recorded vote, please.

Ayes

Kormos, Papatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.

Mr Kormos: I move that section 33 of schedule B to the bill be amended,

(a) by striking out "competitive" in the second line of clause (b);

(b) by adding "and" at the end of clause (b);

(c) by striking out clause (c); and

(d) by striking out "a competitive" in the last line of clause (d) and substituting "an."

This is similar to Mrs Pupatello's amendment but somewhat narrower, which is why it isn't out of order. The arguments she made which I joined with are essentially the arguments in support of this as well.

The Chair: Further discussion? All in favour of the amendment?

Mr Kormos: Recorded vote, please.

Ayes

Kormos, Pupatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.

Shall section 33 carry? All in favour? Opposed? The section carries.

Section 34, any discussion? Shall section 34 carry? All in favour? Opposed? The section is carried.

1530

Section 35:

Mrs Pupatello: I move that subsection 35(1) of schedule B to the bill be amended by striking out "and" at the end of clause (a) and by striking out clause (b).

If I may turn you to that on page 47 of the bill, 35(b) is very interesting. It says:

"(b) the amount of financial contribution, if any, to be made by the person applying toward the cost of providing employment supports."

I find this most interesting. They keep trying to get headlines, this government, about how much more money they're spending for the disabled community, yet we find time and time again that there are all kinds of little clauses here and there that talk about when they're not giving employment supports, not when they are; about how they are going to sign on the dotted line in order to get the placement or they don't get the employment supports; about how the employment supports aren't appealable, about all of those things.

Now we have the amount the persons themselves will have to pay towards the employment supports. We are putting in millions of dollars, supposedly, in this area, and I don't see where you have extended the definitions anywhere or added clauses that we've recommended you do in order to be most inclusive of people you've already succeeded in getting over the bar to meet the criteria of your new definitions. You've been very stringent in terms of how you've described people with substantial disabilities who now meet your criteria to be disabled.

Here they are, in ODSP, and now as we go through, those who are going to get employment supports are going through an absolute obstacle course in order to get there, depending on the placement: "Is it competitive? Will I sign on the dotted line? Is it a funding agreement?" This is the kind of thing that creates a higher and higher level of distrust in the government.

This one is unbelievable:

"(b) the amount of financial contribution...to be made by the person applying toward the cost of providing employment supports."

What does that mean? You pay the first \$10,000 and the government pays the second \$10,000? When they make the financial contribution towards it, is it before or after they get the placement and start receiving income? If they choose not to pay it because they feel they can't afford it, is it deducted from the income they're receiving on ODSP?

Those are the kinds of questions I'm left wondering about that simply are not set out, not because you've provided them in regulations; we don't even know that. Evidence so far dictates that the parliamentary assistant himself doesn't even know the contents of the regulations that are going to be coming. These kinds of questions give us great cause for concern, grave concern. I can see at every turn some area that you've managed to tell people no, but you've already got the headlines, so you've got no interest now in making sure that your bill is truly reflective, to be most inclusive of those people you've already managed to say have to get over the bar.

I'd like to see some kind of amendment of ours being passed here so that you can say: "No, no, you guys are crazy. These concerns are just unfounded." I want to see this amendment passed so you can tell me, "No, no, this is unfounded." Strike out that clause.

The people who would have been in a position to pay for employment support wouldn't have come to the government for assistance in the first place. That just makes eminent good sense to me. If you're not going to do this, I need to hear very concrete logic to tell me why on earth you would have put in this clause in the first place. I ask the parliamentary assistant that.

Mr Carroll: If Ms Pupatello had read her briefing binder, she would know that the minister announced what the government's intentions were here on June 5, that where people have a higher income, over \$52,000 in taxable income, they could be reasonably expected at that point to provide something towards their employment supports. That is why that particular clause (b) is in there.

Mr Kormos: The briefing notes are not part of the legislation, nor are they part of the regulations. We've heard so many people from within this government, both before and after their election, make so many promises. We heard the Premier promise that he had no plans to shut down any hospitals. We heard the Premier promise, both before and after, that not a penny was going to be removed from education.

Ms Pupatello is, in my view, quite astute in her comments, because what we're observing more and more

is the fraud of schedule B, being something other than a General Welfare Assistance Act. We talked a few moments ago about the controlled praise that some members of the community of persons with disabilities had. When you look at how all this becomes very circular, notwithstanding what Mr Carroll just said about his amendment to 32(2)(a), where he restricted it to physical or mental impairment, it all comes down to income, because we've still got discretion as to employment supports.

The ultimate test is still going to be income at the end of the day, and that makes it so eminently identical to schedule A which is, let's call it what it is, the old General Welfare Assistance Act, especially after the section regarding exemption from other provincial statutes was voted down by the committee yesterday, eliminating workfare. It's the old General Welfare Assistance Act, probably back 40 or 50 years. The ultimate test here is still going to be income: "the amount of financial contribution, if any, to be made by the person applying..." That's why there's discretion as to the provision of employment supports. That's why there are going to be proscribed employment supports as well as prescribed employment supports. That's why the test is competitive employment.

Once again, as Ms Papatello pointed out, at the end of the day, if you have a wealthy person who lives with a disability, who is a member of the community of persons with disabilities, or a person who has a prosperous job with a good income, they're not going to be coming to the local service provider. The fact is that the vast majority of persons with disabilities is poor. This government is going to keep them poor with the structure of this bill, and at the end of the day its offer of employment supports is going to be the crudest, saddest and most fraudulent lip-service to a huge community in this province that deserves far, far better.

I obviously support Ms Papatello's amendment.

Mrs Papatello: Just to continue, in response to the parliamentary assistant's comments regarding an income level as designated in the binder, not in regulations and certainly not in the bill, if I take the parliamentary assistant back to 5(c), if the parliamentary assistant has the bill, it says:

"(c) the budgetary requirements of the person and any dependants exceed their income and their assets do not exceed the prescribed limits, as provided for in the regulations."

To come to me in some kind of manner to tell me, "This is what the binder says, which actually sets out a limit"—the number means absolutely nothing because you haven't given us the regulations as prescribed that tell us where that level is going to be set to begin with. By giving that kind of answer — I don't know if you're just trying to be smart or whether it's just because I didn't bring my binder with me — you presume I haven't read it and therefore don't understand it. I don't know if you're trying to be patronizing with me, but the truth is, at every turn you have not given us a significant piece of information to

understand if the level that is identified in some other part of the binder is even going to be sufficient. I don't know if it's just the kind of footnote they gave you to read on this page or what, I'm just talking straight logic.

The truth is that the people who would be at a higher level of income that the parliamentary assistant believes to be high enough to pay employment supports could very likely be high enough to make them ineligible to ever get on the system, and \$52,000 a year, depending on the disability and the expense of that disability, may or may not be that level. We don't know because you haven't told us in regulations.

I'd appreciate some straight facts here and, frankly, some straight answers. Our concerns are real. You haven't presented anything to prove to me our concerns are unfounded. In fact I think they are very much founded and they continue to be repeated throughout schedule B of this bill. Moreover, in the end, skipping right through, as to the appealability of this section, you've taken that right away. In answer to that you say, "No, no, because you get it in another section." Oh no, you don't get it in another section. Throwing little numbers out about other sections isn't going to fool us because in the end you're going to be tried for exactly what we read here.

1540

The Chair: Further discussion? Shall the motion carry?

Mrs Papatello: Recorded vote.

Ayes

Kormos, Papatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.

Shall section 35 carry? All in favour? Opposed? The section carries.

Mr Kormos: I move that clause 36(1)(c) of schedule B to the bill be struck out.

The Chair: Mr Kormos, I believe it's Mrs Papatello.

Mr Kormos: My apologies, but it might be safer — no, it's up to Ms Papatello. I'm not sure which of these amendments — I appreciate there might be a different order. I'm just considering. I'll defer to Ms Papatello.

Mrs Papatello: Could you give me a moment?

The Chair: We are at 99B at the moment.

Mrs Papatello: I'll withdraw.

The Chair: The amendment is withdrawn.

Mr Kormos: If I may, I would simply suggest to Ms Papatello that she defer to me, without withdrawing her motion.

The Chair: You can do that, if you wish.

Mrs Papatello: That would be great.

The Chair: All right. Mr Kormos.

Mr Kormos: I move that clause —

Mr Carroll: Chair, could you explain what just happened?

The Chair: Mrs Papatello changed the order of her motion with that of Mr Kormos.

Mr Carroll: I thought she said she withdrew it and you said it was withdrawn. Isn't that what happened? I thought that happened. Correct me if I'm wrong. Did she not say, "I withdraw it," and you say, "It is withdrawn?"

Mr Kormos: She said, "Quick-draw McGraw."

Mr Carroll: No, tell me if that's not right.

The Chair: Mrs Papatello did say she was withdrawing it and she then changed her mind.

Mr Carroll: Did you not accept that it was withdrawn?

The Chair: I did accept that it was withdrawn.

Mr Carroll: Then I would guess it's withdrawn.

The Chair: You have a valid point, Mr Carroll.

Mr Preston: What are you going to do about the valid point?

The Chair: I'm sorry?

Mr Preston: If he has a valid point, what are you going to do about the valid point?

The Chair: It's withdrawn and we're going on to Mr Kormos.

Mr Kormos: I move that clause 36(1)(c) of schedule B to the bill be struck out.

If I may speak to this, Chair, I should indicate that it's unfortunate these things are numbered and ordered because this obviously deletes all of 36(1)(c), and the Liberal amendment clearly only deletes one word of (1)(c) so it's unfortunate that the committee —

Mrs Papatello: Because it might remind them of the past.

Mr Kormos: Well, I'm not sure of that but it would have provided an option for the committee, in view of what they've said about competitive employment all along —

Mr Preston: A point of order, Madam Chair?

The Chair: We are talking about the motion on page 100, Mr Kormos.

Mr Kormos: Quite right.

Mr Preston: Madam Chair, on a point of order: The committee had nothing to do with this. It was the Chair's ruling that withdrew the motion. The committee had nothing to do with it.

The Chair: Mr Preston, you're quite right. However, in a spirit of consensus, we might have allowed Mrs Papatello to change her mind as in fact she did.

Mr Preston: You would have gone back on your ruling?

The Chair: I have ruled that we are moving on, Mr Preston. Mr Kormos.

Mr Kormos: The Chair is the committee and the committee is the Chair. You speak for all of us.

The Chair: Mr Kormos, I don't want to revisit the issue. Please proceed with the motion on page 100.

Mr Kormos: I'm not, Chair. Trust me.

I'm speaking to my motion to delete clause 36(1)(c).

This is a nasty little clause in here because it submits persons with disabilities to the prospect of a meat chart, the prospect of somebody else's expectation as to their progress during the course of rehabilitation. Let me put it this way: Whatever employment supports are being provided, obviously if the person utilizing those employment supports feels they're not being in any way successful, that person, she or he, is going to be the first person to say, "Don't submit me to that," or "Don't expect me to undergo this particular process."

Again it's the service coordinator. I'm scared out of my skin by an HMO model for service provision. I recall all too well the concerns that were expressed about that on several occasions and the potential for cherry-picking. Where you've got a contract provider and it's a privatized for-profit service, they are going to, as I say, cherry-pick or high-grade.

They are going to want to take the people who have disabilities which are most readily dealt with or accommodated or responded to, and ignore the people whose disabilities are such that their rehab rate is far less speedy. I am very concerned about this, especially because once we move beyond this amendment, we'll then have to talk about 36(2) and Mr Carroll will have to defend the absence of appeal rights because once again here, 36(1)(c), in the absence of appeal rights, makes victims of people with disabilities and has the potential to cruelly punish them for being disabled.

Mr Carroll: Just for the sake of prolonging this, because really, we have discussed this on several occasions, everybody, I would just kind of point out to Mr Kormos that we see an employment plan being entered into between the recipient and the provider of the employment supports, and we see that comprising some elements: one being a goal they would agree on; another one being identification of the supports required to achieve that goal; another one being progress milestones so that progress can be evaluated; the fourth one being a funding application so that once everyone had agreed on the goal, the milestones to get to the goal, the supports required to get to the goal, then the funding could be established to meet that goal. If in fact that plan was not working, then all persons involved would probably say: "Well, the plan is not working. It's time to make some changes to it."

I think it's a reasonable plan that empowers the person who has a disability, who can get some help. It empowers them to go and be part of a plan to improve their particular position. It puts some responsibility on the supplier of the services and on the person who is going to get the services to agree on where this whole process should go and build some accountability into it. It is consistent with the government's goal to improve the employment support program for people with disabilities. For that reason we cannot entertain this particular amendment.

The Chair: Further comments or discussion?

Mr Kormos: Recorded, please.

The Chair: All right. All in favour of the amendment, recorded vote?

Ayes

Kormos, Pupatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.

Shall section 36 carry? All in favour?

Mr Kormos: One moment, Chair, please.

The Chair: Mr Kormos?

Mr Kormos: Debate on 36?

The Chair: Well, 36(1)(c) was your motion.

Mr Kormos: Yes.

The Chair: And? I'm sorry, I'm not hearing you.

Mr Kormos: There are no further amendments to 36, so if we can engage in some discussion about section 36 as it stands, unamended, please.

The Chair: All right. I asked if there was any further discussion before we went to the vote on the section, but you want to talk about the section in general and not your amendment. Is that correct?

Mr Kormos: Yes, ma'am.

The Chair: Very well then.

1550

Mr Kormos: Subsection 36(2): Ms Pupatello has been after Mr Carroll for some time now. Quite frankly, she has been concerned, as have I, as have a whole lot of folks in the province, about the lack of appeal rights. She made reference to this earlier this afternoon. Let me ask Mr Carroll, please, is subsection 36(2) what you call appeal rights, when you indicated to Ms Pupatello earlier this afternoon that indeed there were appeal rights on the issue of employment supports?

Mr Carroll: Subsection 36(2) lays out the rights and 36(3) is the process.

Mr Kormos: You're suggesting this is the appeal rights you're talking about.

Mr Carroll: Yes, I am.

Mr Kormos: Why, may I ask, are the appeal rights not parallel to the appeal rights in other parts of the bill, to the tribunal, and then, as you put it, on a matter of law alone, because the mixed fact or law, or law alone, wasn't deemed appropriate by your government? Why shouldn't the person have the same appeal rights on the issue of employment supports as they do on other areas of schedules A and B?

Mr Carroll: As I understand it, because it's a different process does not mean they don't have the same rights. I don't understand why, moving to a different process that would be established at arm's length from the provider, why access to that process for appeals would be construed as being less option for appeal than going through the tribunal just because it's a different process.

Mr Kormos: Mr Carroll, please, let's take a look at 36(2) and let's look at it very carefully — "an opportunity to respond" to the person whose employment supports are deemed ineligible or suspended or cancelled "in accord-

ance with the service coordinator's dispute resolution process." Nobody in the free world would regard that as an arm's-length appeal. This is the sort of stuff that Stalin and Khrushchev would have revelled in. Nobody's sense of fairness, nobody's sense of natural justice, nobody's sense of due process would ever permit the conclusion that this is an arm's-length appeal — "the service coordinator's dispute resolution process."

It doesn't suggest — and I read it in conjunction with subsection (3) — the utilization of an external body or agency or even individual, and who sets up the process but the service coordinator. They make the rules and then they control the dispute resolution process and there's no appeal from it.

Mr Carroll, I understand what you're trying to say, but how is a dispute resolution process set out by the service coordinator and the process to be determined by the service coordinator an arm's-length adjudication?

Mr Carroll: Subsection 36(3): "Each service coordinator shall establish a dispute resolution process for the purposes of subsection (2)." That dispute resolution process that would have to be set up would be an independent, arm's-length committee to review the decisions.

Mr Kormos: I understand that's what the briefing notes say. Why is it so difficult for the bill to say that? When you say "shall establish a dispute resolution process," it doesn't say, "shall appoint a body to establish, subject to the approval of the minister or subject to whatever's prescribed." Very clearly the law contradicts the statute here, contradicts what your briefing notes say: "Each service coordinator shall establish a dispute resolution process...." It doesn't say anything about arm's length. It doesn't determine the test. It doesn't set any standard here.

You know, please, that the service coordinator is going to have a strong self-interest. It has incredible power. Everybody acknowledges that. We understand that. It's discretionary as to the provision, sans appeal, and then the dispute resolution process isn't determined in the bill to be arm's-length. There isn't a design or a model.

Some service coordinators, because we're going to have districts across the province, may well set up a meaningful dispute resolution process. Others may not. Where's the equality from region to region in terms of service delivery areas in the province? There are no standards here and there's quite frankly no suggestion, although I appreciate that the regulation-making powers are very broad — you could respond by saying that the province will make regulations concerning that, and that would be a perfectly consistent thing for you to say, but surely something that essential, something that crucial — I'm being a little rhetorical, aren't I, because I know the answer. Since it's discretionary, appeal is irrelevant, and dispute resolution doesn't constitute adjudication.

Take, for example, up there in North York, the Automobile Insurance Board with its dispute resolution. It in no way adjudicates but merely tries to get two parties to agree. At the end of the day that's the long and short of it. In the dispute resolution process it doesn't even indicate

that it's going to be binding. It's not like mediation. I would understand and it would be a little clearer if you say there will be a mediation process, the decision of which will be binding, especially if it were a tripartite mediation and it will be binding. It's a dispute resolution process. You know what those are. Come on. The auto industry has one to avoid lemon-aid laws in this province, but it's controlled by the auto industry. The Automobile Insurance Board has one to deal with grievances, complaints about payouts on no-faults, but again it's primarily an industry-dominated one.

Mr Carroll, please, this is very transparent legislation. I understand what you said about the briefing notes. You've been a good soldier for the minister, for the government. On this one, I think you've got to concede this isn't much by way of appeal right. Maybe you don't.

Mr Carroll: The only comment I'd like to make, just to finish the discussion, is again 36(3): "Each service coordinator shall establish a dispute resolution process for the purposes of subsection (2)," and then paragraph 37 of subsection 54(1), regulation-making power and "prescribing standards for the dispute resolution process" referred to "in subsection 36(3)." Mr Kormos, that is the process. It's laid out.

Mr Kormos: But I answered your question for you. I said that's what you were going to do.

Mr Carroll: I was just confirming that you were right.

Mr Kormos: It's almost as if I can read minds. They're so predictable.

The Chair: Any further discussion?

Mr Kormos: Recorded vote, please.

The Chair: Shall section 36 carry?

Ayes

Carroll, DeFaria, Preston, Wood.

Nays

Kormos, Pupatello.

The Chair: The section carries.

Mrs Pupatello: Chair, I'd like to request a recess, please.

The Chair: We need unanimous consent for a recess. Do we have consensus for a recess? For how long, Mrs Pupatello?

Mrs Pupatello: Ten minutes would be sufficient for me — or 15, please.

The Chair: No objection?

Mr Carroll: Everybody understands we're under a restriction of 5 o'clock.

Mrs Pupatello: We realize.

The Chair: We're back at 4:15.

The committee recessed from 1559 to 1614.

The Chair: We're back in session. We have sections 37 to 45. There have been no motions with respect to these sections. Is there any discussion?

Mr Kormos: Section 45?

The Chair: Sections 37 to 45. Any discussion? Shall sections 37 to 45 carry? All in favour? Against? Sections 37 to 45 are carried.

Section 46, Mr Kormos.

Mr Kormos: We're opposed to this in the strongest terms. This is a search warrant provision. This is a serious breach and violation of people —

Mr Preston: A point of order, Madam Chair.

The Chair: Just a second, Mr Preston, we're trying to find the material here. Here we go. My apologies, I'm on the wrong page. Mr Kormos, your motion is out of order. You can speak to the section if you wish.

Mr Kormos: Of course. That's why I was speaking to the section.

Mr Preston: That was my point of order.

The Chair: Thank you very much.

Mr Kormos: This gives the eligibility review officers — it isn't under the section that's dealing with so-called fraud control units, which are a little bit of a sham to begin with. We are adamantly opposed to section 46 and we'll be voting against it.

The Chair: The next motion is a Liberal motion that's also out of order for the same reason.

Mrs Pupatello: May I speak to that?

The Chair: You may speak to the section.

Mrs Pupatello: I would like to speak to the section that does in fact talk about the kinds of designations that will occur under the director. The director may be appointing persons as eligibility review officers. You'll note that in subsection 46(2) it talks about the "powers including, if it is so prescribed," and of course we don't know what that is, "the authority to apply for a search warrant and act under it."

I would tell you that this is a very inappropriate place to give that kind of authority to an individual, that a director is going to designate someone in their department to be this ERO. The difficulty that we have and that we've confirmed out there in the field is that these individuals who may be designated are not people who are going to have the kind of training required to apply for and act under a search warrant. Police officers who do this as a part of their duty spend two years at a police college. They spend an enormous amount of time learning all of the details required to be able to apply for a search warrant.

I feel you're setting yourself up for failure as a government, because if this area is not done properly, when it comes to court the likelihood is much greater that it will be thrown out because individuals who have gone through the process of applying for a search warrant haven't done it properly because they haven't been trained to. Any suggestion that you're going to bump up the training allotment for departments in order for these people to get training just simply isn't believable, because you've made cuts to this ministry, along with all of the others, and they have not had training budgets used for some time already.

The fact of the matter is that while you think you're giving yourself more authority to get in there and get those fraudulent people, you're setting it up in a way that is

doomed to fail. I would strongly encourage that this be completely eliminated and that we would be voting against this section.

The Chair: Any further discussion on section 46? Shall section 46 carry? All in favour? Opposed? The section carries.

Section 47, Mrs Pupatello.

Mrs Pupatello: I move that subsection 47(1) of schedule B to the bill be amended by inserting after "director" in the first line "on the agreement of the recipient."

If we look at that section 47 it talks about, "Designate persons as family support workers to assist applicants for income support, recipients and dependants in taking whatever action is necessary." We believe that this kind of section, as it is written, should certainly include the agreement of the recipient.

The Chair: Further comments? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Pupatello: I move that subsection 47(2) of schedule B to the bill be amended by adding at the end "within the parameters of freedom of information and protection of privacy legislation."

I think that should be there without saying and doesn't need any further discussion.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 47 carry? All in favour? Opposed? The section is carried.

There are no motions to section 48. Any discussion? Shall section 48 carry? All in favour? Opposed? The section is carried.

Section 49, Mrs Pupatello.

Mrs Pupatello: I move that section 49 of schedule B to the bill be amended by striking out "related to a child who has a severe disability" at the end and substituting "related to a person's substantial disability or the treatment thereof."

The Chair: Discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mr Kormos: I move that section 49 of schedule B to the bill be amended by striking out "severe" in the last line and substituting "significant."

This is a somewhat narrower amendment than Ms Pupatello's amendment, which I supported. The government may see fit to support this. I don't have to speak about the enormous burden that families undertake in being the caretakers of a person with a disability. "Severe," once again, is at incredibly high thresholds; "significant," I think, addresses the realities.

1620

Mr Carroll: I'd just like to comment briefly. The eligibility for handicapped children's benefits, the status quo currently uses the term "severe."

The Chair: Any further discussion?

Mr Kormos: I was looking forward to some reform.

The Chair: All in favour of the amendment? Opposed? The amendment is defeated.

Shall section 49 carry? All in favour? Opposed? The section carries.

Section 50.

Mrs Pupatello: I move that section 50 of the bill be amended by adding at the end "unless the person to whom notice is given did not, through absence, accident, illness or other cause beyond his or her control, receive the notice until a later date." This does speak to some of the comments made by government members where they can justifiably reason that notice could not be received in time and that there would be some allowance where there's some kind of reason beyond his or her control that the notice was not received until a later date. It does allow people a little bit of leeway, given the circumstances that you may find more prevalent in this community that we're dealing with.

The Chair: Further discussion?

Mr Kormos: If I may, very quickly, and I obviously support this, let's understand where people who have low incomes live and how they live. They don't have neat little detached homes with neat little mail slots on their front doors. One doesn't have to travel far to see that poor people, be it because they're disabled or otherwise, live in situations where they don't enjoy the luxury of nice, orderly lives, including nice, orderly, neat mail delivery. I think this is an entirely appropriate amendment.

The Chair: Further discussion? All in favour of the amendment?

Mrs Pupatello: Recorded vote.

Ayes

Kormos, Pupatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated. Mr Kormos.

Mr Kormos: Withdrawn.

The Chair: Shall section 50 carry? All in favour? Opposed? The section carries.

Section 51: Any discussion? Shall section 51 carry? All in favour? Opposed? The section carries.

Section 52.

Mr Carroll: I move that section 52 of schedule B to the bill be struck out and the following substituted:

"Subrogation

"52(1) If a person suffers a loss as a result of a wrongful act or omission of another person and if, as a result of the loss, the person receives income support or employment supports under this act, the director or service coordinator is subrogated to any right of the person to recover damages or compensation for the loss.

"Same

"(2) A proceeding may be commenced in the name of the director or service coordinator or in the name of the person who suffered the loss.

"Same

"(3) A claim under this section shall not exceed the total of,

"(a) the costs incurred as a result of the loss for past income support or employment support provided to the person;

"(b) the costs likely to be incurred as a result of that loss for future income support or employment support;

"(c) the costs incurred as a result of that loss for social assistance provided under the General Welfare Assistance Act, the Family Benefits Act or the Ontario Works Act, 1997, or assistance under the Vocational Rehabilitation Services Act by the person responsible in each case for administering that act; and

"(d) the costs incurred as a result of that loss under a prescribed statute.

"Same

"(4) An applicant for or recipient of income support or employment supports shall forthwith notify the director or the service coordinator, as the case may be, of any action brought against a person to recover damages or compensation for a loss referred to in subsection (1)."

The Chair: Discussion?

Mr Carroll: The rationale behind this: This amendment clarifies in whose name proceedings may be brought. It also ensures that the right to recover public funds is broad enough to include damages or compensation arising out of breach-of-contract situations. This provision also ensures the ministry's or the delivery agent's right to be subrogated to a person's claim for any damages or compensation. The amendment requires an applicant or recipient to notify the director, delivery agent or service coordinator of an action taken against the party who caused the loss suffered by the applicant recipient. In addition, clause 54(3)(d) allows for the recovery of claims ordered under another statute.

Mr Kormos: Very quickly, I'm interested in the rationale for deleting "negligence" in making this "wrongful act or omission" unless the government is of the view that "wrongful act" includes negligence. I understand the balance of it. I'm concerned because I anticipate, for instance, with the privatization of workers' compensation and the possible deletion of the no-fault element of workers' compensation, workers being — I appreciate this replicates some existing obligations on the part of a welfare or assistance recipient, but obviously one of the issues here is going to be compensation for pain and suffering, which should not be confused with income and income loss. Assistance is there to provide for income loss. I'll be dealing with that subject later.

The Chair: Further discussion?

Mr Kormos: Can I ask just quickly about the omission of "negligence?"

Mr Carroll: I'm going to ask counsel to answer that question for you.

Ms Fraser: I apologize. Could I ask to have the question repeated?

Mr Kormos: The original wording said "as a result of...negligence...wrongful act or omission." The amend-

ment says "wrongful act or omission." I'm just interested: Why did you delete "negligence?"

Ms Fraser: The original section said "negligence or some other wrongful act or omission." The concern was, when we reviewed that drafting, that it might exclude a breach of contract. That was never our intention. We wanted to ensure that even a breach of contract could be covered by this section. We changed it to say "wrongful act or omission," which does indeed include both negligence and breach of contract.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment carries.

Mr Kormos, your motion is out of order, given the fact that we just passed the government motion.

Mr Kormos: One moment if I may, Chair. Au contraire.

The Chair: Au contraire?

Mr Kormos: Yes, because it still amends section 52 even as amended by the government. The government has basically created a new 52 to which my amendment is still relevant.

The Chair: You may certainly speak to the section if you wish, but your amendment is to section 52, schedule B to the bill. We've just passed the government amendment to that section.

Mr Kormos: I'll not argue the issue.

The Chair: That's the issue, but do you have anything to say?

Mr Kormos: Obviously the concern we have is the inclusion inherently in your language of the loss of pain and suffering. Again, the lawyers here can speak to that more thoroughly, but compensation for pain and suffering clearly isn't compensation for loss of income. One can understand the subrogation of rights for loss of income. Pain and suffering is grossly inadequate but as close as we can get in hopefully a civilized society to compensating people for that non-economic loss; that is to say, their pain and suffering. We seek an exemption of pain and suffering with a ubiquitous exception there. I say it's ubiquitous because it's been around so long. We just think it's grossly unfair that pain and suffering be considered income.

The Chair: Further discussion? Shall section 52, as amended, carry? All in favour? Opposed? The section, as amended, carries.

Section 53.

1630

Mr Carroll: I move that subsections 53(7) and (8) of schedule B to the bill be struck out and the following substituted:

"Personal information disclosed

"(7) A body under paragraph 4 of subsection (1) may disclose personal information in its possession to the director if the information is necessary for purposes related to the director's powers and duties under this act.

"Confidentiality provisions in other acts

"(8) Subsection (7) prevails over a provision in any other act, other than the Freedom of Information and Protection of Privacy Act or the Municipal Freedom of

Information and Protection of Privacy Act, that would prevent such disclosure.”

This amendment responds to the requests of the Information and Privacy Commissioner. It provides the necessary authority for disclosure by a third party which may or may not have a statutory provision in its governing legislation preventing such disclosures. The amendment clarifies that the privacy legislation continues to apply.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment carries. Mr Carroll.

Mr Carroll: I move that section 53 of schedule B to the bill be amended by adding the following subsection:

“Accuracy of information

“(12) The minister shall take reasonable measures to seek assurances that information collected under this section is accurate and current.”

This amendment responds again to the request of the Information and Privacy Commissioner. It provides increased assurance that data collected by the director, and upon which decisions affecting eligibility are made, are accurate and current.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment carries.

Shall section 53, as amended, carry? All in favour? Opposed? The section, as amended, carries.

Section 53.1.

Mr Carroll: I move that schedule B to the bill be amended by adding the following section:

“Sharing of information

“53.1 The minister and the director may share with one another and with the director and each delivery agent under the Ontario Works Act, 1997 personal information in their possession and collected under this act, the Ontario Works Act, 1997, the Family Benefits Act, the General Welfare Assistance Act or the Vocational Rehabilitation Services Act if the information is necessary for the purposes related to their powers and duties under this act or the Ontario Works Act, 1997.”

This is necessary to provide specific authority for personal information related to Ontario Works, Ontario disability support, general welfare assistance, the Family Benefits Act or the Vocational Rehabilitation Services Act to be shared between the minister and director and each delivery agent under the Ontario Works Act for the proper administration of Ontario Works or ODSP.

Mrs Papatello: Does this include the sharing of information with a private company if that delivery agent is in fact a private company?

Mr Carroll: I didn’t hear the question.

Mrs Papatello: This would include the sharing of information with a private company if the private company is then deemed to be the delivery agent in a particular region?

Mr Carroll: It says, “The minister and the director may share with one another and with the director and each delivery agent,” so whoever that delivery agent is would be included under this.

Mrs Papatello: So that would include a private company?

Mr Carroll: It would include a delivery agent.

Mrs Papatello: Could I get staff to respond if that would include a private company if the delivery agent is —

Mr Carroll: The act is very clear. It says “each delivery agent.” It doesn’t preclude whoever that might be.

Mrs Papatello: Could I get some kind of idea from the staff?

Mr Carroll: Chair, the answer to the question has been given.

The Chair: Mrs Papatello, the question has been answered.

Mrs Papatello: Well, it hasn’t been answered, actually. It has just been repeated back to me. Clearly it’s not an answer.

The Chair: Mr Carroll can answer the question in any way he wants.

Mrs Papatello: Well, I need to know this, because we would need to know then that the tendering process that’s going to be put in place to get a private company to be the delivery agent is going to include some kind of clause that makes it now subject to the same rules etc, so when that does come to bear, we can actually check that. Do you understand the purpose for the question?

Mr Carroll: I’m sure, should that eventuality arise some time in the future, that the provisions in this section of the act would apply.

Mrs Papatello: To a private firm?

Mr Carroll: To any delivery agent.

The Chair: I think we have covered it. Any further discussion? All in favour of section 53.1? Opposed? The section is carried.

Mr Carroll: On a point of order, Madam Chair: I’ll bring this up now, because it is 4:40 and I’m not sure exactly where we’ll be. We have an amendment in the file to sections 54.1 and 54.2. It’s page 119 and it deals with the whole area of biometric information. The same amendment is over on page 58 in the Ontario Works section. In drafting these amendments, the leg counsel folks were instructed to draft these identically, and there is one small difference in section 5 of these amendments.

If you will read page 58, paragraph 5 says, “To enable an individual to make a declaration electronically by voice or other means for any purposes authorized under this act.” Page 119 is supposed to be identical, but as you can see, it says, “To enable an individual to make a declaration by voice or other electronic means for any purposes authorized under this act.” In fact, the words “electronically by voice” — there is just a slight change in the wording there. It should have been the same. What I’m asking for is unanimous consent that in the amendment on page 119 to sections 54.1 and 54.2, we be allowed to substitute a corrected amendment with the proper wording in it that reflects the instructions given to leg counsel when they drafted the amendment and which is consistent with page 58.

Mr Kormos: I understand what Mr Carroll is attempting to do, but surely we are to go through these amendments one at a time, in order, and the time for him to request that, it seems to me, would be when it's time for him to move his motion.

Mr Carroll: Mr Kormos, I understand, except that after 5 o'clock we can't do anything like this. That's why I had to do it now.

Mr Kormos: Remarkable.

Mr Carroll: I'm just asking unanimous consent.

Mr Preston: Madam Chair?

The Chair: Mrs Papatello was first, and then I'll listen to you, Mr Preston.

Mrs Papatello: If we chose to allow that change, it would have to be under, and only under, the case that the legal interpretation word would change and not the change of the amendment, so the Chair would have to approve that it's a legal word change, which is the only way we could change the amendment.

Mr Preston: As far as taking these amendments in order, I believe we made a great — well, we went along with the NDP yesterday by standing theirs down for quite some time and then coming to them later. As far as being in order, that has not been a criterion from the start of this.

Mrs Papatello: The issue isn't one of order. It's one of being allowed to —

The Chair: Mrs Papatello, please let Mr Preston finish. I want to rule on this.

Mr Preston: Being in order or out of order has not been a criterion of this committee since we started. There have been changes made to accommodate people. This is a typo. A couple of times today we have had typos in other amendments and we've just said, "Oh, that's a typo," and we went on. This is obviously a typo. If the leg lawyers were asked to do a certain thing and it got changed in the interpretation, it's a typo. We haven't had to make a big deal about it; we've just changed it.

The Chair: There are two issues here, as I see them. One is that there is obviously a legislative drafting issue here, and it certainly falls within this committee to import the wording in 58 to 119 as a legislative drafting error that can be corrected.

The other issue is how we deal with it, and you're quite correct that we have made exceptions in other cases to deal with things out of order, but we've done it on unanimous consent. So what would be required is unanimous consent to simply do that in this case, to read what is a drafting change which doesn't change the substance — well, it does change the substance, but it's perfectly within our mandate as a committee.

1640

Mr Kormos: I'm sorry. Once again, Chair?

The Chair: Mr Kormos, our committee is empowered to look at what are drafting errors and amend them, and that's what Mr Carroll is asking with respect to page 119. The issue is, though, that in order for us to be able to do that, and read 119 with the language of 58, we need unanimous consent to deal with the motion out of order.

Mr Preston: I wouldn't think that would be a problem after yesterday.

The Chair: I take it Mr Carroll is asking for unanimous consent?

Mr Carroll: I'm not asking for unanimous consent to deal with it out of order. I am asking for unanimous consent for us to do what was the intention — the instructions given to the leg counsel that this amendment in fact mirror the amendment approved on page 58.

The Chair: It still requires us to deal with 119 out of order.

Mr Carroll: I understand that.

Mr Preston: That doesn't require unanimous consent, does it?

Mr Carroll: Yes.

The Chair: Yes, it does, because it's not sequential.

Mrs Papatello: I would just like to hear the parliamentary assistant ask for unanimous consent, and then I am prepared to give it.

Mr Carroll: I'm sorry. I started off, I thought, by asking for unanimous consent.

The Chair: Is there unanimous consent?

Mr Kormos: No.

Mrs Papatello: To change the word or to change the order?

The Chair: We have to consider 119 out of order in order to be able to change the wording. We can limit our consent to just changing the wording and not necessarily dealing with the motion in terms of voting with it. I understand Mr Carroll to say that he's asking for unanimous consent simply to change the wording in 119 to reflect 58. He's not asking for a discussion; he's not asking for a vote at this juncture. The question is, is there unanimous consent?

Mr Kormos: No.

Mr Preston: On a point of order, Madam Chair: We started out these meetings, day one, yesterday, with a complete change of all the Liberal motions. Every single one was allowed to be changed, every one. What are there, 100? Every single one was changed yesterday at 10 o'clock. Fine and dandy. That's fine. We want to change two lousy words that were made by mistake, not by us submitting them, but by the legislative counsel.

The Chair: Mr Preston, I have no power to grant unanimous consent if there isn't.

Mr Preston: You had the power to allow these things to be put in by the Liberals after they were submitted.

The Chair: With respect, Mr Preston, I was very clear in my ruling, and I refer you to it. All that happened, with respect, and I will read you the quote if you like because I want to be very precise: "Legislative counsel has limited her changes to creating proper sentences in the context, putting an instruction as a new subsection following the subsection where they were discussed, and putting them in the usual motion format."

Mr Preston: All I'm asking is the same ruling on this situation.

The Chair: It is not the same circumstance and unanimous consent has not been granted, so we'll need to move on.

Mrs Pupatello, is this a new matter?

Mr Preston: Madam Chair, I continue with my point of order: There has been nothing settled here by the Chair. There was a mistake made in the drafting of all the Liberal amendments —

The Chair: Mr Preston, I have dealt with it. There was no unanimous consent. We move on. Mrs Pupatello.

Mr Preston: I want it on record that I severely disagree with an order that will go with one party and not with another.

The Chair: Mrs Pupatello, please continue.

Mr Preston: The Chair in this case is not unbiased: biased 100%.

Mrs Pupatello: On another point of order: When we discussed the Liberal amendments yesterday, I believe there wasn't unanimous consent for the Chair's decision. I do believe the Chair will have the authority, if it's her pleasure, to make a change to number five of the amendment, because that's in fact what happened; it was the Chair's decision, so that the Chair could choose, because of the legal wording being changed only and not because it relates to the content.

The Chair: Mrs Pupatello, I don't want to return on this question. It's a very simple matter. We need unanimous consent. We did not get it.

Is there a new point, Mr Carroll? I want to facilitate, trust me.

Mr Carroll: On the outside chance that my original question was not properly understood, could I just one more time ask, can we have unanimous consent —

Mr Kormos: On a point of order, Chair.

The Chair: Would you let him finish?

Mr Kormos: He just did. I'm talking about the appropriateness of that. I have so enjoyed the discomfiture of the Tory members. They've been playing those kind of games throughout the course of these hearings, but under the circumstance —

The Chair: Mr Kormos, please spare us.

Mr Kormos: — I'm inviting Mr Carroll to seek unanimous consent again.

The Chair: Thank you very much. We truly appreciate it.

Mr Kormos: I'm prepared to be far more generous than they were during the course of the last three weeks.

Mr Carroll: We appreciate your magnanimous gesture, Mr Kormos.

Mr Preston: He's always like that.

Mr Carroll: I guess he said yes this time.

The Chair: Very well. Is there unanimous consent?

Mrs Pupatello: No. Just kidding.

The Chair: The hour is late, Mrs Pupatello; don't test us. Very well. There is unanimous consent. What we have in fact agreed to is that we will insert a new, rewritten motion. Thank you very much, Mr Carroll.

We then proceed to section 54, and I'm sure we've all been waiting for this one. Mr Kormos, I believe you're up first with section 54.

Mr Kormos: If I may.

The Chair: You may. I would remind you, though, that we have 10 minutes left. Promptly at 5, our time allocation motion requires us to put everything to a vote.

Mrs Pupatello: Could I just get exactly the word that's been changed?

The Chair: If you looked at page 58, it's the identical wording that's in number 5. Mr Kormos.

Mr Kormos: I move that subsection 54(1) of schedule B to the bill be amended by adding the following paragraph:

"1.1 defining 'income' and 'assets' for the purposes of this act and exempting the prescribed income or assets from inclusion in the determination of budgetary assets."

That's so the Lieutenant Governor in Council has the power to identify certain income and assets as not being income and assets for the purpose of determining budgetary eligibility.

Mr Carroll: Quickly, Mr Kormos, 54(1)3 has regulation-making power there, "determination of budgetary requirements, income and assets and the maximum value of assets permitted," so we believe that it's already included.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mr Carroll: I move that paragraphs 7 and 8 of subsection 54(1) of schedule B to the bill be struck out and the following substituted:

"7. prescribing what shall be considered to be authorized by prescription for the purposes of subsection 5(2);

"8. prescribing matters to be considered in determining what a substantial restriction in activities of daily living is attributable to for the purposes of subsection 5(2)."

This amendment changes the reference to the regulation-making authority related to the exclusion of people with substance dependency from income support to match its new location in subsection 5(2) as a criterion of eligibility.

Mrs Pupatello: Does it change anything other than the order?

Mr Carroll: Does it change anything —

Mrs Pupatello: Other than the order. You've added this because of where it was changed in your earlier amendment?

Mr Carroll: Yes, because subsection 5(2) is where we deal with the eligibility.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is carried.

Mr Kormos: I move that subparagraph (ii) of paragraph 9 of subsection 54(1) of schedule B to the bill be amended by striking out "including the time and manner of providing that information, verification of that information" in the second, third and fourth lines.

The Chair: Discussion?

Mr Carroll: Quickly, Mr Kormos, we find this unacceptable because it has no effect other than replacing specific with general language. I'm sure as a lawyer you would understand that.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mr Kormos: I move that paragraph 11 of subsection 54(1) of schedule B to the bill be struck out.

If I may, anticipating Mr Carroll's frequent remarks, I should remind him that I was a criminal defence lawyer, which in my view is a far more suitable background to be a member of this Legislature than any other practice of law, but that my familiarity with civil law and other areas is really not sufficient to render an opinion. But I appreciate your confidence.

Mr Carroll: Paragraph 11 provides us the authority to prescribe persons who are not eligible, such as prisoners.

1650

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

The next amendment I believe is similar so out of order. We're on 112B; 112A is out of order. It's identical to the previous amendment.

Mrs Papatello: I move that paragraph 44 of subsection 54(1) of schedule B to the bill be struck out.

We are not comfortable at all with the kinds of powers that are being prescribed to eligibility review officers etc, as outlined there, and specifically service coordinators, which may well be private companies, as we know, which are going to be given an inordinate amount of power.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mr Carroll: I move that subsection 54(1) of schedule B to the bill be amended by adding the following paragraph:

"50. providing for the collection, retention, use, disclosure and safeguarding of privacy of personal information referred to in clause (4)(a)."

This amendment supports the transfer of regulation-making authority for collection and use of biometric information from the minister to the Lieutenant Governor in Council to ensure that privacy concerns are addressed by cabinet. This amendment has the support of the Information and Privacy Commissioner.

The Chair: Further discussion? All in favour of the amendment? Opposed? The amendment carries.

Mr Kormos: I move that paragraph 2 of subsection 54(2) of schedule B to the bill be struck out.

The Chair: Any discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mrs Papatello: I move that paragraph 2 of subsection 54(1) of schedule B to the bill be struck out.

The Chair: This is paragraph 2 of subsection 54(2)? Have I got the wrong one? There's a drafting error in here. The title does say 54(2). Did you read 54(1)?

Mrs Papatello: Yes, I did because it was indicated with arrows on my page.

The Chair: If it is a typo, then it's identical to the one Mr Kormos just read that was defeated so it's out of order.

Mr Carroll: I move that paragraph 3 of subsection 54(2) of schedule B to the bill be struck out.

This amendment supports the transfer of regulation-making authority for collection and use of biometric information from the minister to the Lieutenant Governor in Council to ensure that privacy concerns are addressed by cabinet. Again this amendment has the support of the Information and Privacy Commissioner.

The Chair: Any further discussion? All in favour of the amendment? Opposed? The amendment is carried.

Mrs Papatello: I move that subsection 54(4)(a) of schedule B to the bill be amended by striking out "or encrypted biometric information" in the third and fourth lines.

The Chair: Discussion?

Mr Kormos: Recorded vote, please.

Ayes

Kormos, Papatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.

Mr Kormos: I move that subsection 54(4) of schedule B to the bill be struck out.

The Chair: Discussion?

Mr Kormos: Recorded vote, please.

Ayes

Kormos, Papatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.

Mr Kormos: I move that subsection 54(6) of schedule B to the bill be struck out and the following substituted:

"(6) A regulation made under subparagraph (vi) of paragraph 9 of subsection (1) may only apply with respect to money due or owing or which may become due or owing to a recipient which would, if received, have been income during the period of receipt of income support."

The Chair: Discussion? All in favour of the amendment? Opposed? The amendment is defeated.

Mr Carroll: I move that section 54 of schedule B to the bill be amended by adding the following subsections:

"Apportionment of costs

"(7.1) A regulation made under paragraph 42 of subsection (1) may do one or more of the following:

"1. Authorize municipalities in a geographic area to determine by agreement how their costs are to be apportioned, subject to the prescribed conditions.

"2. Provide for an arbitration process for determining how the costs of those municipalities are to be apportioned.

"3. Set out the manner in which the costs of those municipalities are to be apportioned.

"Same

"(7.2) A regulation under paragraph 1 or 2 of subsection (7.1) may,

"(a) provide, on an interim basis, for the manner in which costs are to be apportioned and for the time and manner in which they are to be paid;

"(b) permit an agreement or an arbitration decision to apply to costs incurred and paid before the agreement or decision is reached; and

"(c) provide for the reconciliation of amounts paid on an interim basis.

"Same

"(7.3) Where a regulation under paragraph 3 of subsection (7.1) is retroactive, it may provide for the reconciliation of amounts paid."

The rationale: Currently there's an impression among municipalities that the province will require separated cities and counties to share social assistance costs on the basis of assessment. A standard method based on assessment would mean that separated cities, which would benefit significantly from that approach, have no incentive to negotiate with counties on the consolidation of service delivery and would prefer to wait for the province to impose a solution.

This amendment indicates that other approaches also exist, such as arbitration, and that assessment should not be presumed to be the favoured solution. This provides incentives for municipalities to work towards a solution they can agree to. The province prefers locally generated solutions and does not wish to have to impose a solution.

The Chair: Ladies and gentlemen, it is now 5 o'clock by my watch and therefore, in accordance with our time allocation motion, all amendments which haven't been moved shall be deemed to be moved. We'll now proceed to those.

Dealing first with the amendment that has just been moved, all in favour of the amendment? Opposed? The amendment is carried.

Shall section 54, as amended, carry? All in favour? Opposed? The section, as amended, is carried.

Shall sections 54.1 and 54.2 carry?

Mr Kormos, there is no debate.

Mr Kormos: No, it's not debate, it's a point of order.

The Chair: Let's hear your point of order.

Mr Kormos: We've got 54.1 and 54.2. Is it not appropriate to refer to the identification number of the amendment that creates those sections, because down the road we're going to have separate amendments dealing with the same section.

The Chair: I'm not following you, Mr Kormos. I said sections 54.1 and 54.2. That's dealt with.

Mr Kormos: But it's by way of amendment. All I'm saying is that I trust everybody has it identified as number 119.

The Chair: Oh, you want me to read the page number as well.

Mr Kormos: Yes, just so that we have a reference point to know, because there are subsequent amendments.

The Chair: That's fine. I will be happy to do that. It's a reasonable request.

Sections 54.1 and 54.2 on page 119.

Mr Kormos: Recorded vote, please.

The Chair: I'm sorry. With respect, our time allocation motion requires that any divisions are deferred until all other questions are dealt with, so we will have to defer this until we've dealt with other sections and amendments.

There is no amendment to section 55 of the bill. Shall section 55 carry?

Mr Kormos: Recorded vote, please.

The Chair: Deferred.

Subsection 56(3), page 120: Shall that amendment carry? All in favour? Opposed? The amendment is defeated.

An amendment on page 120A to subsection 56(3): All in favour? Opposed? The amendment is defeated.

Shall section 56, as amended, carry?

All in favour? Opposed? The section carries.

1700

Mrs Papatello: Is that 121?

The Chair: Let's do this in order. We're now at 121.

Section 57, the amendment on page 121: All in favour?

Mr Kormos: Recorded vote, please.

The Chair: Deferred.

We now move to schedule C, subsection 1(0.1), on page 122. All in favour of that amendment? Opposed? The amendment carries.

Page 123, the amendment to subsection 1(1): All in favour? Opposed? Carried.

Shall section 1, as amended, carry? All in favour? Opposed? Carried.

Section 2, page 124, the amendment to subsection 2(3): All in favour?

Mr Kormos: Recorded vote, please.

The Chair: Very well.

Shall sections 3 to 8 of the bill carry? All in favour? Opposed? Those sections are carried.

We move now to schedule D, sections 1 through 11. All in favour? Opposed? Carried.

Section 12, an amendment on page 125: All in favour of the amendment? Opposed? The amendment is carried.

Section 13, an amendment on page 126: All in favour? Opposed? The amendment is carried.

Shall section 13, as amended, carry? All in favour? Opposed? The section is carried.

Shall schedule D carry, as amended? All in favour? Opposed? Carried.

Schedule E, sections 1 through 5.

Mr Carroll: I'd like to request a vote on 1 separately.

The Chair: Very well. Section 1: All in favour? You're not asking for a recorded vote, are you?

Mr Carroll: No.

The Chair: Section 1: All in favour? Opposed? Section 1 is defeated.

Sections 2 to 5: All in favour? Opposed? Those sections are carried.

On section 6 there is an amendment on page 127. All in favour of the amendment? Opposed? Carried.

Shall section 6, as amended, carry? Opposed? Carried.

Sections 7 to 13: All those in favour? Opposed? Carried.

Shall schedule E carry as amended? All in favour? Opposed? Carried.

We now deal with the recorded votes. We go back to 54.1 in schedule B on page 119.

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Papatello.

The Chair: The section is carried.

Section 55: All in favour?

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Papatello.

The Chair: The section is carried.

Section 57, on page 121.

Ayes

Kormos, Papatello.

Nays

Carroll, DeFaria, Preston, Bob Wood.

The Chair: The amendment is defeated.

Shall section 57, the short title of the bill, carry? All in favour? Opposed? Section 57 carries.

Shall schedule B, as amended, carry?

Mr Kormos: Recorded vote, please.

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Papatello.

The Chair: Schedule B carries.

We move on to schedule C, section 2, on page 124. All those in favour of the amendment on page 124?

Mr Kormos: Recorded vote.

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Papatello.

The Chair: The amendment is carried.

Shall section 2, as amended, carry? All in favour? Opposed? The section is carried.

Shall schedule C, as amended, carry?

Mr Kormos: Recorded vote.

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Papatello.

The Chair: Carried.

Shall the long title of the bill carry? All in favour?

Mr Kormos: Recorded vote.

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Papatello.

The Chair: The long title of the bill is carried.

Shall Bill 142, as amended, carry?

Mr Kormos: Recorded vote.

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Papatello.

The Chair: Bill 142, as amended, is carried.

Shall we report the bill, as amended, to the House?

Mr Kormos: Recorded vote.

Ayes

Carroll, DeFaria, Preston, Bob Wood.

Nays

Kormos, Papatello.

The Chair: I shall report the bill, as amended, to the House.

Ladies and gentlemen, thank you all very much for your patience throughout all this. In particular, I know members of the committee would want me to thank the technical staff, Hansard, our legislative counsel and of course Tonia Grannum, without whom none of this would have been possible, because she has worked absolute miracles to get us from point A to point B, to this point today. Thank you all very much.

The committee adjourned at 1710.

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Mr Allan Kirk, project manager, social assistance legislation, MCSS

Clerk / Greffière

Ms Tonia Grannum

Staff / Personnel

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Monday 1 December 1997
Monday 8 December 1997

Journal des débats (Hansard)

Lundi 1^{er} décembre 1997
Lundi 8 décembre 1997

Standing committee on social development

Comité permanent des affaires sociales

Funding for children's services

Financement des services
pour enfants

Funding for persons
with disabilities

Financement des services
pour les personnes handicapées



Chair: Annamarie Castrilli
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Monday 1 December 1997

Lundi 1^{er} décembre 1997*The committee met at 1600 in room 151.*

FUNDING FOR CHILDREN'S SERVICES

FUNDING FOR PERSONS
WITH DISABILITIES

Consideration of designated matters pursuant to standing order 124 relating to "The Impact of the Conservative Government Funding Cuts on Children and on Children's Services in the Province of Ontario"; and "The Impact of the Conservative Government's Funding and Funding Cuts on Persons with Disabilities and Their Families."

The Chair (Mrs Annamarie Castrilli): We are now in session. Ms Lankin.

Ms Frances Lankin (Beaches-Woodbine): I would like to raise a request for unanimous consent. I have substituted on to this committee today in the place of Marion Boyd, our regular member, because the two subject matters we are dealing with are part of my critic's portfolio.

I am also, however, required to be in the House for a period of time today to speak to the motion that is on the floor and I would like to have unanimous consent from the committee that during the 15 minutes of my absence, Ms Boyd could retake her committee membership in my place.

The Chair: Is there unanimous consent? There is unanimous consent.

Ms Lankin: Thank you.

The Chair: We are here today to consider standing order 124 relating to the impact of the Conservative government's funding cuts on children and children's services in the province of Ontario, and again under standing order 124, the impact of the Conservative government's funding and funding cuts on persons with disabilities and their families.

You may recall that there is some time left on each one of these standing orders, but just to refresh your memories, we have about an hour and 21 minutes on the first item and then an hour and 53 minutes on the second item.

We have a report that was prepared with respect to the first, and we have not yet given instructions to the researcher with respect to second one. The only other item that I would point out is that there was a deadline of November 17 for the various caucuses to make recommendations. No recommendations were received.

With that, what I will do is turn it over to our researcher to give us the background on these issues, which have been outstanding for some time. Mr Carroll.

Mr Jack Carroll (Chatham-Kent): Madam Chair, just a couple of points first. I presume this is the first time we've seen this particular report?

Mr Ted Glenn: No, it has been distributed before.

Mr Carroll: The updated one that included the last —

Mr Glenn: At the last subcommittee meeting a copy of this was distributed.

The Chair: To my knowledge, it's been distributed at least twice and it's been updated at least once.

Mr Carroll: The last time we met, as I can recall, and maybe somebody can refresh my memory, we talked about the need to update the report. This is the updated report. Is that what this is?

Ms Lankin: What is "this" that you are referring to, Mr Carroll?

Mr Carroll: The one that was at our place when we came in today.

Mr Glenn: Right, which is dated October 6, 1997. On the bottom left-hand side there is a date on it. We've had, over the last six months, two different meetings. One was to authorize me to go and survey the ministries for additional information. Subsequent to that, I updated the information. We had another meeting earlier this fall on the report, at which time this updated version was brought to the subcommittee meeting.

Mr Carroll: The package of materials that was distributed today to my office, I presume, other than the report — did this come from the researcher?

Clerk of the Committee (Ms Tonia Grannum): That came from our office.

Mr Carroll: It didn't include this report?

Clerk of the Committee: No.

Mr Carroll: And this report was circulated prior?

Clerk of the Committee: The only report I circulated that I had received was a July 25, 1996, report. That's the date in the corner of the one, the draft report on children's services that we dealt with in a subcommittee.

Mr Carroll: With all due respect, I do not remember seeing this before. But it has been circulated by —

Mr Glenn: The only substantive difference is updated information from the ministries that we received in June 1997. That was the only substantive difference between the two versions.

Mr Carroll: But this report in its current version —

Mr Glenn: The last subcommittee meeting.

Mr Carroll: — was previously distributed to the members of this committee.

Mr Glenn: To the subcommittee.

Mr Carroll: Not to the members of this committee.

Mr Glenn: Not to the committee generally. The committee generally has not met on this issue.

The Chair: If I may, the reason this has gone to subcommittee, again as you know, we have had some difficulty in structuring the meeting because of our busy agendas and we thought it would be easier to just bring it to committee. In fairness, the full committee has not seen that report, but it was circulated to the subcommittee and that may be the reason for the confusion.

Mr Carroll: Should we not have had an opportunity, though, to peruse this report before we were asked to discuss it here? It's kind of cold to come in just today and see this report and now be asked to discuss it. Do you think we should have had an opportunity to look over the report and decide?

The Chair: Let me clarify. When was that report distributed to the members of the committee? I assumed that every member of the committee had it.

Clerk of the Committee: Today. I just received it today.

Mr Carroll: It was on our desks when we arrived here today. It's very difficult to ask our members of the committee to discuss this today when we just received it today.

Ms Lankin: Like they have any real input anyway.

Mr Glenn: If I could reiterate, the bulk of the report was written after the public hearings on the matter were completed in June: the summary of the witnesses' testimony, a summary of their recommendations, a summary of information brought to the committee's attention at that time. That initial summary has been around since July 1996. The only things that have been updated since that time have been the initiatives that the government has undertaken. So in substance the report has not changed, the summary has not changed. It remains the same. The only thing that is different that is highlighted in this report in underlined fashion is new initiatives that the government has undertaken. That's the only thing that has changed. The bulk of the report remains the same.

Mr Frank Klees (York-Mackenzie): Chair, if I might, that may all be well and good. The fact is that this is the first time I'm laying my eyes on it, and if I'm to make any comments that have relevance whatsoever, then I think it's important for me to have had some time to review this report. Those changes may or may not be significant, but this is the first time I'm seeing it. I think we're at a disadvantage and I don't think we'll do justice to this report if we attempt to discuss it without the benefit of that previous information.

The Chair: Ms Lankin, did you want to comment?

Ms Lankin: Yes, I wanted to comment on that. I just had one technical question first to —

The Chair: Are you going to comment on this point or —

Ms Lankin: Yes, and I just have a question. The updated information in terms of ministry programs that's before us, Ted, does that include the very late response from the Minister of Health which we received on October 1, 1997? Is that information included in the updated information?

Mr Glenn: I believe it is.

Ms Lankin: If I may, Madam Chair, I do believe that this poor little document has had such a tortured history and I'd like to put it out of its misery. I don't know about others who are around this committee, but this has been an extraordinarily long process because of competing demands for the committee's time, which is entirely understandable given the large legislative agenda that the committee has had to deal with, with relatively important items and controversial pieces of legislation.

If I may say to you, Mr Klees, while I understand the concern you're putting forward, the essential version of this has been circulated to the caucuses through each caucus's representative on the subcommittee. There is some responsibility of the person representing each caucus on that subcommittee to convey to the subcommittee, in their decision-making, the interests and concerns of the committee members from their caucus. That is, through that process, why the committee chair has, on our instruction, sought further updates and information as this has languished in time. The government has made certain announcements either with respect to further cuts or, in many cases, further expenditures with respect to these services and we have attempted to ensure that that information was sought and reflected in the report itself.

I might say that if you look through the history of this, early in the summer we started to attempt to get some more information from the Ministry of Health and you can see yourself the length of time they took to respond, the response only having come October 1.

All of this information has been available through the subcommittee and I hope we wouldn't set this through another period of long delay. I am assuming that your representative on the subcommittee has reviewed that with your caucus research staff and/or the members of the committee and is prepared to put forward a position of whether there is support for this document.

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There is no change in the reflection of what witnesses said to the committee and the characterization of what happened at the hearings or of the points that were raised or the concerns that were raised. By going through it you can see the underlined sentences, and if people need a few minutes to take a look at the actual underlined information I think, particularly for the government members, you will find that it is probably helpful to your point of view of explaining government initiatives that that information is included.

You will see that it is not the majority of the report. The majority of the report remains exactly as the copy that was circulated over a year ago, which all committee members have had, and they should have had, at this point in time, a position with respect to that.

Respectfully, I would request that we don't delay this further and ask the members to take a moment, as we are discussing this, to look at the actual information which is underlined and to see if there is concern with that. I think you'll actually find, as members of the government caucus, some comfort in that information actually being included.

The Chair: Let me briefly recap the events with respect to this particular motion. It was originally introduced in 1995 by Mr Gravelle, and there were hearings. The first report was prepared in July 1996. There have been two other reports since then. The one you received most recently was this morning. The other two reports were circulated quite widely, and the second one in particular was circulated to the entire committee.

Mr Glenn, our researcher, indicates that the difference between the one you received a week ago and the one you received this morning is minimal. I'd like to give him the opportunity to take us through the report and I think that may assist us all. Bearing in mind that this issue has been outstanding for some two years and more, it would be useful to try and get it moving forward.

Mr Carroll: Madam Chair, you made reference to a report we received a week ago. Is there something between July 25, 1996, and this report that was on our desks today?

The Chair: I'm advised that you received an entire package, which included that July 25 report, a week ago and then you received a further copy this morning.

Ms Lankin: And the update from the ministries —

The Chair: And the update, yes.

Ms Lankin: — which has simply been taken and put into the report. We did receive that.

Mr Carroll: Is this the total final report? I want to ask the researcher. What was on our desk, is this the total final report?

Mr Glenn: October 6, 1997, date.

Mr Carroll: That is the total final report?

Mr Glenn: To date, yes.

Mr Carroll: And this is the first report since July 25, 1996.

Mr Glenn: That is the updated version of it. It's the same report; it's just been updated with new information.

Mr Carroll: The first time we are seeing this is right now.

Mr Glenn: It was distributed this morning.

Mr Carroll: Is that correct, okay?

Mr Glenn: Well, it was distributed to the subcommittee on October 6, when the subcommittee last met.

Mr Carroll: This report was distributed to the subcommittee.

Mr Glenn: That's right. That's what I just indicated.

Mr Carroll: With all due respect, Madam Chair, I have not forwarded a copy of this to the members of the committee. I think it is unfair to go from this report, which some of them may have — quite frankly, it's over a year and a half old — and to now ask us to consider this. I would like to move a motion that we delay consideration of this final report until our next committee meeting.

Mrs Sandra Papatello (Windsor-Sandwich): I guess my own history with this, because as the critic for my party that advanced this as the 124 subject matter initially, the purpose of it was to determine the cuts of the Mike Harris government and their effects on children in Ontario. That's what we were doing, looking through the first year, 1995. So when we launched it, we'd had that period of time when we were looking at it.

In that delay of an additional year, when all the writing was taking place etc, we have had significant other government policies. Unfortunately, and for good reason, we've continued to add additional information in because the scene keeps changing; unfortunately, in my own view, not for the better where kids are concerned. Regardless, the way the reporting is done it's almost procedural, collating information that was presented to us through hearings. I don't know what more it is. If you have another day, so that we reschedule to tomorrow or next week, it isn't going to change the content that's here, because that was brought to us via hearings.

We've had several subcommittee meetings that were constantly cancelled for any number of reasons, given the scheduling of the committee, but our reviewing for an additional week etc so that ultimately we're going to accept the report — I'm going to presume that we can't not accept the report, because we were all here during the process that we took in collecting it. The actual preparation of it in a report is a reflection of what we all went through in of those hearings. It was a long time ago. It feels like it was in another lifetime by now, nevertheless an extra week — we can walk through it today and look at what we've done, but I don't know what purpose additional time is going to serve, because it can't change what went into the report. What went in was the view of that year of government policy's effect on children. A week now, a week next week won't change that we were looking at that period of time. In fact, if you delay any further, what you should do is call a whole new 124 again, after two and a half years of this government's policies' effects on children, because there have been considerable changes even in this last year that in my view would cause us concern and we would want that information as well to be put in the report.

In the end I'm saying that the picture isn't going to get any brighter by delaying it an additional week. This is the heart of the matter. This is why we called it. That's why we asked for this topic to be considered, because it was so serious. Nevertheless, it's a reflection of that picture of that window in that year. We've delayed, delayed, delayed and we've continued to have meetings scheduled, only to be shuffled out for whatever reason. We can't change the facts as they happened that year.

Ms Lankin: I understand what Mr Carroll is saying. I would ask you one more time to flip through and take a look at the underlined sections and I think you will see it's all information that came from your ministries. It's all just a statement of initiatives they have undertaken. I'm not sure what the problem is. If you need a further week to review the changes or those updates, I can understand that.

I would just like to point out that we are actually, in the process, past the time in which committee members can submit changes or caucuses can submit changes to the report. We did set in our process a couple of deadlines over the course —

The Chair: November 17 was the deadline for recommendations.

Ms Lankin: The last one. We've all had to meet those deadlines. If your review is simply to review the updated information that has been added and to see if it is factual or correct or if there's a concern with respect to that, then I think that is warranted. This has come from government and it's translated but I think everyone should have a right to satisfy themselves that the translation has been done in a way that satisfies members of the committee.

If your concern is to start from square one in reviewing the report and/or making recommendations for changes in any aspect of the report other than the underlined sections, then I would say we really would be opening up to the possibility of delay. I can tell you there are, as a result of recent things that have happened, a number of recommendations I would like to add to this report now. If you open the door, you open the door all the way around.

I would support Mr Carroll's request for a one-week delay, but with the understanding that the only information being reviewed is that which has been underlined in the report and indicated as an update based on ministry information.

Mr Klees: I just want to point out, and I'm not sure if I'm the only member, that I was not a member of this committee when the hearings took place, so I'm at a disadvantage in not having that history. I also have to admit that I haven't seen the report until now, so it's not just a matter of going through and looking at the underlined parts.

Ms Lankin: That's all you're entitled to do, is what I'm saying.

Mr Klees: It's the context of it that's important for me.

Ms Lankin: Could I ask for further clarification on that, because presumably committee membership could change again tomorrow, Mr Klees, and you may be gone, or next week, and someone else may be in who wasn't there and didn't see it. There is a process that has been set up and we have passed the time in which caucuses can have input to the report and change aspects of the report.

We as a committee, through our subcommittee, asked for some updated information, which took some time to get but has been incorporated in. If we should choose to question some of that updated information, I can understand that, but we have arrived at an agreement with respect to the content of the report. If you're suggesting that this be opened up again, that's a very odd process at this point in time.

I'm very respectful of the fact that you're new to the committee vis-à-vis when these hearings took place, but I think it would be untenable, with respect to the process of committees, to have that option to continually reopen and potentially continue to delay. Given that this is over a year and a half old already, it really has been through the

wringer. I think we must discipline ourselves in terms of what we're prepared to review over the course of the next week if we give ourselves one more week.

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The Chair: Mr Klees, I appreciate your difficulty. Let me tell you that I was not Chair at the time that this thing was instituted. In fact, Mr Gravelle, who initiated what was then the 125 motion, is not even here. But there is a responsibility on each of us and each of our caucuses to make sure there's continuity. That's really the issue we have to deal with.

There has been some time for review of this issue. I appreciate that this particular report is new as of this morning, but the report itself has been outstanding for some time.

There is a motion to remand this issue. There has been what may have been a friendly amendment of one week, I'm not sure.

Mr Carroll: I understand what Ms Lankin is saying and I don't have any problem with that. I just think, to make the five of us comfortable with what's in this, some time to review it so we know what we're talking about — I'm not looking at opening it up again for more information.

The Chair: We couldn't in any event because of the deadline that has been previously set with respect to this.

There's a motion on the floor to defer this matter. Ms Lankin has suggested it might be for a week. Would that be considered a friendly amendment?

Mr Carroll: A week is reasonable.

The Chair: Can we consider them together or shall we have the amendment first?

Ms Lankin: The friendly amendment.

Mr Carroll: Yes.

The Chair: So you'll restate that?

Mr Carroll: That we delay it until next Monday.

The Chair: All in favour of that motion? Opposed? The motion is carried.

Mr Carroll: I would like to ask one other question too that was asked in the initial report back in July 1996. It's about the title. Back then the subject was Draft Report on Children and Children's Services and the question was asked, "At present, the title of the report is Report on Children and Children's Services." I've been led to believe that there was some discussion about that title and it was accepted as a title. Now I see the title is the standing committee report on "The Impact of the Conservative Government's Funding Cuts on Children and Children's Services." Was anybody here to remember if there was a discussion on the title?

The Chair: The researcher probably has the continuity.

Mr Glenn: There was a very long discussion at an editing meeting of the subcommittee between Janet Ecker, who was the PA at the time, and Bud Wildman, and the other individual at the time I think was Dave Cooke. We had an extended discussion about the title. At one point we said it was going to be just Report on Children's Services, at which time Janet Ecker suggested the title that is cur-

rently on the front cover just so there's no confusion over its relationship to the standing order or to who initiated it or anything. It was her suggestion and at that time the three caucuses agreed that it should be the title.

Mr Carroll: So the title on this document was suggested by Janet Ecker.

Mr Glenn: Yes.

Mrs Papatello: I'd like to, if I may, as well for information: Each party has an entitlement, at least at that time, whatever the rules used to be, to their selection of one to five committees. This was our selection. That was our request for 125 and it was granted, so it's obvious that is why it's there.

Mr Carroll: I understand the motion. I'm concerned about the presumption in the title as opposed to the rather innocuous title of a Draft Report on Children and Children's Services. I'm hard-pressed to think Janet Ecker suggested this title. I'm not saying that she didn't, but I just don't understand her suggesting this as a title.

Mr Glenn: If you note in the title it's actually in quotes and the quotation is directly to the standing order 125 at that time. She presumed it would be the least technically confusing title to go with because it is in quotes as well. It is a quote. It is not the title per se.

Mr Carroll: When I remind her about that, then she will say, "Yes, I did that."

Mr Glenn: You can certainly go ahead and remind her.

Ms Lankin: If I may, my recollection of the discussion as it was reported back to me was the concern that if it was a report on children and children's services, the parliamentary assistant of the day, now minister, did not believe that it adequately reflected all the government's good intentions and terrific record on this because it was a compilation of —

Mrs Papatello: Is that in quotes?

Ms Lankin: Yes, that is in quotations. I'm paraphrasing what the now minister must have said.

The concern as I understand it was that this report is a reflection of the groups that were invited forward to participate in a section 125 hearing and she felt it was therefore slanted, if I may say, to public or special interest groups, which is something we've heard from this government as a criticism in other areas. So it doesn't surprise me that it was their concern. The title, therefore, is just reflective of what the motion was and the section was.

If I may say so, I think it is the most appropriate way to entitle these reports, given that these are questions raised through the rights of the standing orders by opposition members for review. That is the question the Liberal Party put forward to be reviewed, and the report should be the answer to that question. I think that title is technically correct.

Mrs Papatello: Can you confirm that we have a committee next week this time, that we don't run into some other delay?

The Chair: We will set a meeting for it next Monday at this time. That's the motion.

If we could turn to the second matter, then, which is the hearings on the disabled, just to recap, the hearings on this particular matter were held in January and February of this year, and what you have in your package is a summary of the hearings. Is that correct?

Mr Glenn: That's correct.

The Chair: We have not as yet even given instruction to the researcher as to how we might proceed, but I might ask him to just give us an overview of what he has prepared here.

Mr Glenn: As the Chair has indicated about the document before you, the summary of hearings under standing order 125 entitled "The Impact of the Conservative Government's Funding and Funding Cuts on Persons with Disabilities and Their Families," the title makes reference to the standing order, which is dated February 5, 1997. It contains a summary of the information presented to the committee by roughly 20 witnesses in January and February of this year.

The document also contains a condensation of background information provided by various government ministries that provide services to people with disabilities. That survey was facilitated by the Ministry of Citizenship, Culture and Recreation in I believe the fall of 1996. I think it stands as a very good survey of the programs which exist.

The document goes on to discuss various programs, the impact that witnesses reported, and then it also concludes with witnesses' recommendations for service delivery to the disabled. That is where the document stands now.

Mr Carroll: Would the researcher suggest putting together the information received at our hearings plus this document he just referred to, to form a report?

Mr Glenn: It has been the practice in the past that the body of a report on a matter such as this would be both things together: the information received from the ministries as well as a summary of the witnesses' testimony. Typically, it would also include recommendations by the caucuses either collectively in the same document or there could be minority reports as well.

Mr Carroll: He's awaiting direction now from us as to how to proceed with the report?

The Chair: That's precisely right.

Mr Carroll: I would like to move that we instruct the researcher to proceed with the report on item number two, "The Impact of the Conservative Government's Funding and Funding Cuts on Persons with Disabilities and Their Families."

Mrs Papatello: I second that motion.

Ms Lankin: A question: The document you're talking about is what you refer to through this as appendix A for full details?

1630

Mr Glenn: I'm sorry. There is a document that has been circulated, the summary of hearings into SO 125, entitled "The Impact" etc, dated February 5, 1997, which includes the witness summary as well as the information received from the ministries.

Ms Lankin: Yes. For example on page 5, "health services," you're talking about the information under "current funding situation" on the graph.

Mr Glenn: Yes.

Ms Lankin: Under that it says: "This is a partial list. Please consult appendix A for full details concerning these and other programs."

Mr Glenn: Yes. Is the appendix —

Ms Lankin: I don't have a copy of the appendix.

Mr Glenn: I'm sorry, that's my fault with the circulation of the appendices. It's just the ministry's full response. I believe it was in the envelope that was distributed. I'll distribute that.

Ms Lankin: Yes. I've gone through the whole package and I don't have a copy of the appendix. I'm in support of the motion, but I would like to have that circulated.

The Chair: Very well.

Interjection.

Ms Lankin: No, that's the witnesses — the actual ministry information that each of these graphs has been taken from. You essentially have combined the information already.

Mr Glenn: Yes.

Ms Lankin: It is here. When Mr Carroll raised that we instruct you to proceed, what exactly are the next steps that you would be proceeding with?

Mr Glenn: I was about to ask the question after the motion was voted on whether or not to request from the caucuses their own recommendations or if they would like to include their own recommendations in it. I think the draft thus far is pretty well complete and ready for editing by the subcommittee. The decision that has to be made is whether or not the caucuses' recommendations would be included.

Mr Carroll: To be consistent we should, because again some issues — obviously we've introduced a whole new act.

The Chair: We can deal with that subsequently. Perhaps we'll deal with your motion first. Ms Lankin, we'll make sure that the appendix is distributed to anyone who does not have it.

Ms Lankin: If I also wish to have the issue of caucus recommendations addressed, it seems that it should be addressed in the context of this motion. If Mr Carroll is going to move a motion for updated information to be included, I would like to see that before I'm asked to put my caucus recommendations in. We might have a little bit of a problem with the cart before the horse here in terms of these motions. Perhaps Mr Carroll would like to stand down the motion that's on the floor and proceed with the motion with respect to his request for updated information, what he wants contained in the report.

Mr Carroll: A good point, because I believe the motion should read that we direct the researcher to produce a report that includes updated information from the ministries that offer services to people with disabilities.

Mrs Papatello: If we can we'll need to include then, if we're going to do that update on ministry policy change, information regarding the funding numbers updates in that

same time frame. There have been additional cuts right across ministries that are mentioned here and they will have to be updated as well.

The Chair: We're now discussing Mr Carroll's motion. I understand him to have stood down his original motion.

Mr Klees: Yes, I understand that. In fact, I was hoping we would move in this direction because much has happened. I think it's important that we incorporate the changes that have taken place in 124 into this report.

Further to Ms Papatello's comments, the relevancy isn't the cuts to ministries. The context of this report deals specifically with the impact and services to people with disabilities. Clearly we want this report to be relevant, so I think it's important that the report link the funding commitments that have been made for people with disabilities, particularly the provisions under the ODSP, to ensure that is reflected in this report.

Mrs Papatello: I have to take the committee back to the request for the 125 in the beginning. I recognize that you weren't here at the time that was made, but the request was specifically for a 125 committee report on the impact of the Conservative government's funding and funding cuts on persons with disabilities and their families. It's not a wholesale discussion on government policy etc. Just like the report on children, this is a specific report on funding and funding cuts. That's why you see the content doesn't get into policy etc.

We are allowed as an opposition party to make a request for a 125. We've done that under the rules as they apply. We haven't done anything untoward or that we can't be granted. That is the request we made. It was accepted. It goes forward. So when we get into discussion in terms of updating, I'm presuming that the parliamentary assistant assumes that there will be additional funding information being added over the course of this last year.

What I'm suggesting is that there are additional funding cuts. If you start adding the funding additions, you have to also add funding cuts, but not a wholesale description of policy, because that's outside the 125. That's not what the 125 was concerning. If you have a request for a committee report that is going to deal with government policy as it affects the disabled, you probably have more wherewithal to have that done than we do, but that's going to be your subject matter. We selected the subject matter here and this is exactly what we were focusing on, not government policy. So it's outside our committee's report.

Ms Lankin: I'm going to leave and Ms Boyd will be taking over. I just want to indicate that I think Mrs Papatello is correct in her characterization of this. Obviously there's a way in terms of the Ontario disability support program because it has to do with funding service or service which is funding, but you could describe that as funding. So you could do that.

I would just beg us not to do what we did on the last 125. I find this really frustrating. This was to review to a point in time when those hearings took place. Perhaps, if I may suggest, if the government caucus wanted to put a minority report in on it, you could do that in terms of the

update, and others could as well. This is a review of what the ministry provided us at the time and what the witnesses said at the time.

Life goes on and things change, and we could be here into the millennium continuing to update a report in the life of government. That's not what this is all about. If it's a fight about who's on the side of good or evil with respect to these, we have our mechanisms through our recommendations. I would like us, once we've voted on Mr Carroll's, to get on to talking about the process for caucus recommendations to be submitted or through minority reports to provide a reflection of an update, which you have complete control over in individual caucus.

I would suggest that's a more useful way of doing this rather than going through the process of asking ministries to update numbers again. You saw we waited months and months and months with several attempts by Leg research to get information from the Ministry of Health updated. They're busy people and we're not high on their priority. I don't want to see this report fall to the same fate as the children's services report.

Mr Carroll: Madam Chair, could I just ask Ms Lankin something before she leaves? This has been an unbelievable —

Ms Lankin: I really do have to go.

Mr Carroll: Maybe I can just kind of ask it. This has been a terribly fractured process, one that most of us weren't involved in at the beginning. We've got a new minister, new PAs and so on. I agree it has gone on far longer than it should have gone on.

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What are we going to do with the report at the end? We've been two years, different people, different personalities in and out, different government policies and initiatives and responses and studies. What are we going to do with the report when we do get it written? Are we going to have a huge press conference and announce big, bad government beating up on little people? What are we going to do with this report when we do finish it? Are we going to table it in the Legislature? What do we do with these reports?

The Chair: The procedure is this, Mr Carroll: The report is written. If it's adopted by the committee, it then is tabled in the Legislature and is adopted or not by the Legislature. If it fails in committee, it goes nowhere. That's the only responsibility that we have. There's no requirement on us to have a press conference or anything of the sort. The legislative process is just as I've described it.

Mrs Papatello: If I may, Chair, there are very few opportunities that the opposition parties have to have a public process under the official title of government except through these 125 committees, very few opportunities for us.

When we do have them, like the selection of these topics for discussion for the committee to draft a report, the reporting process from the research side is pretty clear and straightforward: "Here are the facts that come from the ministry," which he's got. "Here are the details of what

was presented through the hearing process we went through." Then they report factually on the ministry information they were given and factually summarize what people said when they came for hearings. Then they make the report. There isn't a question that we can say no, this isn't the report, because it's a summary of everything we've gotten factually from the ministries. That's it. So of course we're going to accept the report when it's through, but because there's always that politicizing of it, every caucus then has the opportunity to submit their minority report to the committee's report. Yours in all likelihood in this case is going to go on at length about the new ODSP program. That's fine. That's going to be your caucus part of it.

But in the end, it's going to happen the same as happens with all the others. We're going to take this kind of document to the minister politically and say: "Here's what we heard. Here's how we hope to influence your policy." That's certainly what the intention is with children. You now have a minister without portfolio responsible for children. She's the first one who ought to get the detail of the report as written, because it's meant to influence policy.

The Chair: Any further comments?

Mrs Marion Boyd (London Centre): I feel at a bit of a disadvantage.

The Chair: Welcome to the club.

Mrs Boyd: I'm quite curious about what the process is that's going on. Having been in government for seven years, this process of 125 is quite laid out. It's got a long history. You look at the particular subject matter, you have people come and speak to it, the Legislative Assembly staff make a report and the committee has the report on what was said and what the answers to those questions were. Normally it's a snapshot in time. Normally it doesn't keep sitting there and getting revised every second. It's a snapshot in time: The questions were asked, the hearings were held, and the report is thus.

It seems to me a bit peculiar for the parliamentary assistant to be asking what use is going to be made of it. The use is that the information was gathered and the information then can be used in any form of policy discussion that's held. There is an opportunity, one assumes — and I gather this is the next question — to determine exactly how each party has an opportunity to respond to what is in the report, which is a factual report, and to make recommendations as a result. We all have that opportunity. So I'm not quite sure what the delay is.

Mr Carroll: Instead of a snapshot here, we have a full-length movie. It's been going on for two and a half years —

Mrs Boyd: But it shouldn't have been. That's your problem.

Mrs Papatello: That's your side, Jack.

Mr Carroll: — that most of us were never part of.

The Chair: One at a time, please.

Mr Carroll: We're trying to figure out what we're going to do with it now, and we want to be sure that when

it does get tabled in the Legislature, it's something that we at least understand. That's the place I'm coming from.

The Chair: This particular issue has not been outstanding for two and a half years, since the hearings were actually in this calendar year.

Mr Carroll: Yes, this particular half. They tend to be together, so —

The Chair: I'd like us to stay on top of it with respect to this one.

Mrs Pupatello: Right now, what we need to determine is that the researcher is going to now complete the writing of the report. The only addition is that we get some of that appendix information to each caucus?

The Chair: There's an actual motion on the floor that I'll ask the clerk to read in a minute. Mrs Boyd, did you want to add something else?

Mrs Boyd: I guess the issue is, we shouldn't be full-length movies. Your term of office is a full-length movie, if you like. This is one frame where in one of the very few opportunities that opposition parties get, they get to ask some questions and get some factual material submitted and get some hearings on an issue that concerns the electorate. The reason, as I understand it, that it's been a full-length movie with the children's one is exactly this: You kept changing your personnel and people kept wanting more and more information. I would beg you not to have the same thing happen here.

The Chair: I'll ask the clerk to read the motion.

Clerk of the Committee: Mr Carroll moves that the researcher produce a report that includes updated information from the ministries and offices who deal with such programs.

Mrs Pupatello: So that we don't run into where we were with the children's 125, what's our time frame to meet again on that with the updated information? Maybe what we can do is get it to each caucus in advance so that when we get to the next committee meeting, we won't have to see it new just at that point; we can go on and discuss it at the next one.

The Chair: Typically these kinds of matters would be considered at subcommittee first. It doesn't have to come to the full committee. The other issue with respect to children's services is an extraordinary one, and that's why it's gone to full committee. But normally the report would go the subcommittee and then be moved on.

Your other issue about the time frame, it's hard to put a time frame on responses from ministries, but I'd be certainly willing to hear what members think we should put on as a time frame.

Mrs Pupatello: What were you intending, Jack?

Mr Carroll: Obviously, the researcher has to request updated information from the ministries. I'm not in a position to force them into a time frame when responding. Hopefully, they would respond in a timely fashion, but I'm not in a position to say you have to respond in a week. It's up to the Chair and the researcher to perform that function. But I think it is wise that we have updated information from them.

Mrs Boyd: I'm looking at the report. It seems to me that the things that need to be updated — basically, is the parliamentary assistant saying that he wants an added line for the 1997-98 estimates? As you go through this, that's what we're talking about.

It seems to me that if the parliamentary assistant wants to wait until the ODSP program is fully implemented — and the statistics on individual things look very different than they do here — that's going to take a very long time and it is not reasonable for a 125 motion.

If your concern is to try and include in a motion that was brought some time ago everything that subsequently happens up till the end of your term, that's not particularly reasonable. But it seems to me that those situations throughout the report where we've got the estimates for 1995-96 and the estimates for 1996-97, if what you wanted was the estimates for 1997-98 added to that, or even the actuals for 1996-97, that might be a reasonable request, since they're published. The estimates are now published, so that should be very easy to do.

Mrs Pupatello: My question is for the parliamentary assistant. Because the 1996-97 estimates are in here, what were you expecting wasn't? What update were you looking for?

Mr Carroll: I understand that what we have here is a summary of the hearings. Is that not what we have, Mr Glenn?

Mr Glenn: What we have, as I'd explained, is a summary of the public hearings on the standing order investigation as well as a condensation of the information received from the survey that was conducted by myself and facilitated by the Ministry of Culture. It includes both.

The Chair: The researcher has also reminded me that if the House should prorogue before Christmas, this motion fails. There will be no report. It ends; the matter is dead.

Mrs Boyd: I guess then it's fair to ask, is that the purpose of the parliamentary assistant's motion, to have the motion fail?

Mr Carroll: Pardon?

Mrs Boyd: Is the reason we're asking for yet another delay on this report because you want the motion to fail on the order paper? Is that what's happening here?

Mr Carroll: I believe we should follow the same procedure with this report as we followed with the report on children, and that is to give it to the ministries affected to give us an update before we finalize the report. The policy has been established. I just suggest that we do the same thing with this report.

Mrs Pupatello: My question is for the researcher. In terms of updating, as you look at what's been prepared, will the update include simply going to the financial records to confirm the 1996-97 estimates?

Mr Glenn: I haven't received that direction yet.

Mrs Pupatello: Jack, based on the way the report has been written then, would that suffice, updating the data? That way we can go through financial information to confirm, because the estimates were probably from the

estimates books. Now we can say that these are actual estimates. Would that suffice?

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Mr Carroll: Whatever the ministries believe they should contribute to update the report I believe is what's appropriate. I'm not going to prejudge that and say, "All we want is this." We have given the ministries the opportunity in the previous 125 to update the information that they have supplied. I think they share the same opportunity with this report. I'm suggesting we give that to them without putting some parameters on that, "This is all we want." I don't think it's that difficult to ask them to update the information they've provided.

Mrs Papatello: Actually, it will be difficult because if you ask them to blue-sky — or here's what you think you want to put in — as opposed to sticking with the information that they sent previously and then updating the data, then at least we know we're going to get it in within the time frame so that an actual report will be tabled.

Would you be prepared to simply ask the ministries to give us some idea — I guess they'll know right away if there's more info to give or not, but that the time frame for them has to be within the week, that they have to give us the information within the week so that we will get this report tabled?

Mr Carroll: I'm not in a position to force the ministries into any kind of time frame. The Chair will request the information, as she did on the previous one, or the researcher will, and then we're subject to whatever time lines they can provide the information for us on.

Mrs Papatello: Are you prepared to make that request, even knowing that it runs the risk of not having a report tabled? Are you prepared for this request for an update, even though you're running the risk of no report being tabled at all?

Mr Carroll: The report, when it's tabled, should contain as current information as we can —

Mrs Papatello: But you may not get it tabled if you have it open-ended like this.

The Chair: Ms Papatello, let Mr Carroll finish.

Mr Carroll: I think it should be as current as it can be.

Mrs Papatello: Do you want it not to be tabled, Jack?

Mr Carroll: I have no comment on that. I want the information to be as current as it can be, as it is in the previous one. I don't think that's unreasonable.

Mrs Papatello: The previous one is not up to date as of today.

Mr Carroll: It's up to date as of the deadline that we drew.

Mrs Papatello: We see what your plan is, Jack. It's only going to make it worse for you. I wish you'd just get on with it.

Mrs Boyd: Madam Chair, I've just gone through this, and the only statistics that the ministry would have to update, the only statistics that have not been presented by hearing — people who presented their own statistics in the hearings cannot be updated, because that was what they said in hearings. I looked through on page 5, page 6, page 7, page 8, page 9, page 10, page 11, page 12, pages 14, 15

and 16. The statistics that are there are estimates statistics. The last year that the estimates were presented here were the 1996-97 statistics. The estimates for 1997-98 have now been tabled and have gone through the process.

If what the parliamentary assistant is saying is that he wants the 1997-98 estimates added here, we can give the deadline of a week. They're published. It's easy. It's not a problem, because they're all published estimates, if that's what you're asking. That's the only statistics that are here that can be changed by the ministry. The ones that were presented by operations like MARC or the Kidney Foundation or whoever else were part of testimony. That can't be changed by the ministry. If you're asking for the —

Mrs Papatello: What you're saying is that when we go to make the request for ministry updates, it's going to be very easy to provide it because they provided really a very limited amount in the beginning.

Mrs Boyd: That's right.

Mrs Papatello: We should be fine. We'll be able to get it within a week.

Mrs Boyd: We should ask for it next week.

Mrs Papatello: Okay, researcher, it's all up to you.

Mr Klees: I think what all of us want is a report that has integrity and that is current. I think Mr Carroll's reason for wanting that updated information to be included in the report is exactly that, so that we can in fact use it to improve services, to caution the government or to raise alerts as to where we need to focus our attention. I don't think it's just a matter of updating statistical information.

I've asked staff to give me the details, but I know I read a press release just within the last 48 hours that Isabel Bassett has made an announcement about what I would call a new information system that directly relates to people with disabilities in the province. I think that isn't just blue-skying, as Ms Papatello put it; there was a substantive commitment to a program that obviously will impact the very people this report will deal with. We should be including that kind of information as this report is being drawn to its conclusion so that at that moment in time, when that report is completed, we know precisely what we're dealing with. It's more than just statistical information. Whatever the programs are that have been put in place by this government should be incorporated.

Mrs Papatello: Just as we agreed in the last 125 report on children, all of us are going to have that opportunity to include that in our caucus report that becomes part of the document, so you can go right across all your ministries and find all the things you'd like to say concerning policies, additions, changes. All of that will be included if you choose to include that in your caucus report, just as we will. We're going to have the opportunity to make recommendations that will be attached to this report, and so can you. We've all just agreed to that process as with the last 125, and Jack is saying we want to do the same as we've done with the last 125. We should be fine. You're going to get exactly what you want in terms of added information in the report. We all agreed to do that with the last one on children, so if we're doing the same, you won't have any difficulty getting that information in.

Mr Klees: Just to follow up on that, what I'm saying is that if the researcher is going to be in touch with the ministries and ask them for their updated comments on services affecting the disabled, it should be complete and it should be included in the committee's report. Yes, as caucuses we can certainly add our comments, but there's no reason at all why current information should be overlooked. I think it compromises the integrity of the report.

The Chair: We have a motion on the floor. I suggest we vote on it. Does anyone need it read again? All in favour of Mr Carroll's motion? Opposed? The motion is carried.

Mrs Boyd: I would like to move that this information needs to be returned to us by Monday, December 8.

The Chair: We have a motion that in my correspondence with the ministry I indicate that the information needs to be returned to us by December 8. Any discussion? All in favour of the motion? Opposed? The motion is defeated.

Mrs Boyd: If I may, it's quite clear that this is just a delaying tactic and that the government clearly plans to prorogue and that is what this is all about.

Mr Klees: I think that is an inappropriate comment and imputes a motive to this committee that is not correct. That is not the intent of the government. It was certainly not mine as I voted on this motion. As Mr Carroll had indicated previously, we want the information in this report to be complete. I think the integrity of the work of this committee is dependent on a complete report and I think Ms Boyd's comments are out of order.

The Chair: I think Ms Boyd is entitled to say what she wants and it's not a question for me to rule on whether it's in order or out of order.

Mrs Boyd: I think the government has a very easy course, if that is how they respond, by saying that if indeed they should prorogue, they will hold this report over, as part of the motion to prorogue.

The Chair: In fairness, Ms Boyd, the motion has already gone through its normal course. If you want to make another motion we can certainly put it on the floor but at the moment there's nothing to discuss. Are you making a motion that if the matter is prorogued, there be a commitment from the government? Is that what you're saying?

Mrs Boyd: I will make a motion that if the House should be prorogued before this updated information is received and this report acted upon by this committee, the government members commit to having this report held over as part of the prorogation motion.

Mr Klees: May I speak to that? I think Mrs Boyd knows full well that it's not up to the members of this committee to make a decision as to what is held over and what is not, so for us to vote on that particular motion would be an exercise in futility.

I can tell you that I for one consider it an important report and I will certainly undertake to have discussions with our House leader on the importance of this report, to

see what can be done to ensure that the work that's gone into it and the appearances of the witnesses is work that isn't lost, but I couldn't support the motion Ms Boyd is suggesting for that reason.

The Chair: Before you go much further, Mr Klees, the motion is in fact not in order because there is no power in this committee to do what you suggest. You would have to reword it if you wanted it on the floor.

Mrs Boyd: Exactly, and I think that in fact Mr Klees made what I would regard as a friendly amendment, which was that the members of this committee will make every effort to convince their respective House leaders that this report should not be lost should the House prorogue.

The Chair: You can't have a friendly amendment to a motion that's not in order, but I will take that to be a new motion.

Mrs Boyd: Thank you.

The Chair: Very well. Any discussion on that motion? All in favour of Mrs Boyd's motion?

Mr Klees: Sorry, I did not hear it.

The Chair: I'll ask the clerk to repeat it.

Clerk of the Committee: That the committee request of their respective House leaders that if the House prorogues before the updated information is received and the report is completed, the matter be carried over to the next session.

The Chair: Discussion?

Mrs Papatello: You couldn't possibly argue against that.

Mr Klees: What is the implication of that, and is it possible for the next session to deal with this issue, because we have the matter before us? We have the information and the work has been done. Is it possible for us to deal with that information that's before us without having this matter carried over formally? That's my question. I'd like some —

The Chair: I think the response to your question is this: If the House prorogues, the matter is ended. The only way we could consider the information that's been received over the last year or more would be by agreement of the House leaders. Failing that agreement, there is no way this committee would be seized of the material.

Mr Klees: I can say to you again that I have no problem with making a recommendation to the House leader.

The Chair: There is already a motion on the floor.

Mrs Boyd: That's what the motion is.

Mr Klees: Before we vote, I am simply saying I don't have a problem with that.

The Chair: Very well. Any further comments? All in favour of Ms Boyd's motion? Opposed? The motion is carried.

Is there any further business that members want to bring to the attention of the committee? Seeing none, we will adjourn. Thank you very much.

The committee adjourned at 1704.

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL DEVELOPMENTCOMITÉ PERMANENT DES
AFFAIRES SOCIALES

Monday 8 December 1997

Lundi 8 décembre 1997

The committee met at 1548 in room 151.

FUNDING FOR CHILDREN'S SERVICES

Consideration of the draft report on the designated matter pursuant to standing order 124 relating to "The Impact of the Conservative Government Funding Cuts on Children and on Children's Services in the Province of Ontario."

The Vice-Chair (Mr Dwight Duncan): I call the committee to order. We're going to discuss today the paper that's been distributed to you on "The Impact of the Conservative Government's Funding Cuts on Children and Children's Services in the Province of Ontario," a matter designated pursuant to standing order 124.

We have a total of one hour and 21 minutes left to discuss this report. I'm going to begin today by allowing the research officer to present to the committee what has been done to date and what has been determined by the subcommittee of the social development committee, and this time will not apply against the one hour and 21 minutes.

Mr Ted Glenn: Most of you will be familiar with the report now, as it has been drafted to date, on the standing order investigation. Hearings were held in December 1995 and June 1996 into the matter; 22 witnesses were heard from at that time. This report before you summarizes the content of those hearings and includes an updated account of programs offered by the various ministries for children as well as their expenditure levels.

As you can see, the first part of the report includes a bit of discussion about poverty levels in addition. A number of witnesses used various measures of poverty, and to flesh out that debate a little more the subcommittee instructed me to include a broader discussion of the various different terms used.

The report is broken down into "Child Protection and Welfare," "Child Care," "Health Care," "Education" and other effects that generally corresponded to the way witnesses presented their information.

The report as it currently exists ends with specific recommendations made by the witnesses as they relate to early intervention, policy and program coordination, equality between the public and private sector service providers, early childhood education, healthy families and community spirit and cohesion.

At the conclusion of the public hearings, the subcommittee met to decide how the report should be drafted. At

that initial meeting, we also went through a detailed editing of this report up to the end of the witnesses' recommendations. It was decided at that meeting that each of the caucuses would submit their own sets of recommendations with regard to children and children's services and a number of deadlines had been proposed and have passed since that time about those recommendations.

What the committee needs to address at this point is how they would like to conclude the writing of the report, and that's the direction I look for right now.

The Vice-Chair: We have one hour and 21 minutes of time left. If I can just put a question before we start the clock running, could you be a little more clear about what you mean by "conclude the writing of the report"?

Mr Glenn: In an earlier subcommittee meeting it was agreed upon that the body of the report would include the draft that you have before you as well as recommendations from the caucuses. I need direction from the committee if we are to continue in that way or if we would like to conclude it with the witnesses' recommendations as kind of a snapshot in time, if you will.

The Vice-Chair: Have you received recommendations from the caucuses?

Mr Glenn: No, I haven't.

Ms Frances Lankin (Beaches-Woodbine): That was going to be my question. I think poor Ted has been dragged through the knot-hole several times on this one with deadlines that we've set to attempt to do that. I'll let Mr Klees go ahead.

Mr Frank Klees (York-Mackenzie): I was just going to say that in light of the fact that we really haven't come through with any specific recommendations, it may be appropriate for us to accept this report as it is, see to it that it gets perhaps translated and printed and tabled and then allow each of the caucuses to prepare their own reports in response to the report, which is really putting in place the submissions of the hearings that were held on this. I just hate to see this getting deferred further.

Ms Lankin: I agree with what Mr Klees said. A slight variation: I think the subcommittee has set several deadlines and the caucuses have not met those deadlines. I understand the reason why. Everyone has been flat-out busy with a lot of very important pieces of legislation. It's not at all that these areas before us contained in this report aren't important, but they weren't focused in the same way with a piece of legislation in the House and a timetable attached to it.

I think at this point in time we would be doing a dis-service to the people who participated in this and to the staff, research in particular, who have worked hard to put it forward, if we keep this on ice any longer. I think the report should be tabled and released, and what any of the caucuses do with respect to the issues and questions and concerns raised in the report is up to those caucuses at this point in time.

I would be in favour of not holding this up any longer either. I think it's unfortunate that we have not been able to give it the attention it truly deserves, but it becomes a problem of it becoming too stale-dated if we hold on to it any longer.

Mrs Sandra Papatello (Windsor-Sandwich): I don't know what the format is at this point, but I would like to make a motion that this report be tabled in the House.

The Vice-Chair: Is that supported? I guess the appropriate motion would be that the committee adopt and accept the report and that it be tabled in the House.

Mrs Papatello: What format does that take? Does it require a motion to move it?

I guess, Chair, the hour and 20 minutes we have is strictly for the 124 on children, separate from the time on the disabled?

The Vice-Chair: That's my understanding, yes.

I guess the appropriate motion would be that the report be adopted, that it then be translated and printed and then the report tabled in the Legislature. Just as a caution, if this is not done by next week and the House prorogues, everything dies.

Clerk of the Committee (Ms Tonia Grannum): I should clarify that. If the House prorogues and this committee is disbanded, then the 124 issue dies. If the House prorogues and this committee carries over, because this is a committee-generated issue, this issue would carry over. But if the committee is disbanded, then the issue would die.

The Vice-Chair: Mrs Papatello, is that a motion that the report be adopted, printed and tabled in the Legislature?

Mrs Papatello: Yes.

The Vice-Chair: Is that supported?

Mr Klees: I'd like to speak to that. I'd like to know from the clerk what a reasonable time frame is there to have this report translated and printed. What are we looking at, reasonably?

Clerk of the Committee: December 8. We may be able to do it just before the House rises. Translation can take four or five days. We pay a premium if there's a rush on it. For printing it goes outside, so if we want a quicker turnaround we may pay a premium on that as well.

Mr Klees: I'd like to suggest this, so that we don't box ourselves in: I wouldn't support the motion as it is worded. I'd like to see us put a motion forward that accepts the report, refers it for translation and printing and leave it at that. I would like to see this report tabled as soon as possible. If the House rises — in other words, if this work doesn't get done — then I would like to see it tabled with the Clerk in the intersession so that at least we have the

report available to us and so it is public and we can work with the report over the next three or four months.

Ms Lankin: This is just a question to the clerk. Is it not the normal process, if the House is not actually in session, that it is tabled with the Clerk of the House?

Clerk of the Committee: That is correct.

Ms Lankin: So this is a standard motion, Mr Klees, that's come forward here, which is just to adopt the report, send it for translation and printing and to be tabled. It will be tabled, if the House is sitting, with the Clerk, and the Speaker will announce it or not; if not, it's tabled with the Clerk.

The Vice-Chair: That is correct. It will be tabled with the Clerk in the event that the House is sitting as long as it's adopted today.

Mrs Papatello: That would be my motion. That was the clarification I was looking for.

The Vice-Chair: That's supported.

Mr Klees: Could you read that motion again, please?

The Vice-Chair: First of all, that the report be adopted, translated, printed and tabled in the Legislature. When the Legislature is not sitting, it's tabled automatically with the Clerk.

Mr Steve Gilchrist (Scarborough East): Could I ask what the status is of a report that's tabled with the Clerk if the House prorogues? Is it then subsequently tabled when the Legislature comes back or is it deemed to have died, along with other bills on the order paper? I recognize, with that qualification there, but in all other respects, once it's in the hands of the Clerk, does that give it a different weight than if it was still in the hands of the committee and the committee carried on?

Clerk of the Committee: Right. It's a tabled report. It's a sessional paper. It has been tabled.

Mr Gilchrist: The proroguing will be irrelevant.

Clerk of the Committee: Right.

The Vice-Chair: The key is that this committee has adopted the report.

Mr Gilchrist: Fair enough.

The Vice-Chair: Any further discussion? I'll call the question on Mrs Papatello's motion. All in favour? Anyone opposed? The motion carries. The report will be adopted, translated and printed and reported to the Legislature. It was carried December 8.

That concludes our business for the day.

Mrs Papatello: Question of the Chair. I don't know if research or the clerk has information about questions that were brought out last week concerning the timing of the next document, the 124 on the Liberal Party's request, The Impact of Conservative Government Funding Cuts on the Disabled Community. We had some questions last meeting around the proroguing etc, when we have to have that in, what the time frame was going to be like to get answers from ministries. Can you give us an update on successes you've had so far in getting additional information?

Mr Glenn: The Chair and I spoke at the end of the meeting last Monday and agreed that I will draft a memo to the ministries asking them to update information they

had originally sent us last December and January. If the House happens to agree that this issue shall be carried over, the Chair will sign the memo on December 18 and we will distribute it.

Clerk of the Committee: I should just clarify that. If this committee is still standing and carries over to the next session, this issue will carry over. It is only if this committee is disbanded and doesn't exist that this issue would die, and then you would have to request through the House leaders that it carry over.

Mrs Papatello: Does that tell me then that we have no hope of getting additional information, say this week, in terms of dealing with it next week, or do you have any indication from the ministry?

Mr Glenn: Given the record of the time frame involved, the number of individuals involved in the ministries and the resources they have to pull together to answer this, the Chair and I decided, given that the time frames are one to two or three months, that we would not pursue the issue until December 18.

Mrs Papatello: Okay, and to the clerk: What is the likelihood of the committee standing through? What is the history?

Clerk of the Committee: I couldn't answer that. The House leader makes that decision.

Mrs Papatello: Have there been committees that have carried over in the past?

Clerk of the Committee: I know there have been committees that have been allowed to sit during the intersession. I really don't know. I'd have to look into that and get back to you. But committees have been given permission to sit during the intersession. I don't know if the committees will be disbanded. I can't answer that.

The Vice-Chair: That would be, I assume, subject to some discussion with the House leaders. Perhaps the opposition caucuses will want to put forward that this can carry forward.

Are there any other comments? That was a good meeting. I declare the meeting adjourned.

The committee adjourned at 1602.

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